APPENDIXES TO THE REPORT OF THE SELECT COMMITTEE OF THE LEGISLATIVE ASSEMBLY ON REGULATIONS IN THE PROVINCE OF ALBERTA

ALBERTA

November 1974

"ERRATA"

TO THE REPORT OF THE SELECT COMMITTEE OF THE LEGISLATIVE ASSEMBLY ON REGULATIONS IN THE PROVINCE OF ALBERTA

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- Reference to the last consolidation of the Federal Regulations in Canada should show that same was in 1955 instead of 1945 and consisted of three volumes and a supplement. (Page 15, Column 2, Page 20, Column 2, and Page 21, Column 1 - Main Report)

- Reference to Motor Vehicle Compensation Regulations should read Motor Vehicle Safety Regulations, (Page 21, Column 2 - Main Report)

- Independent corporations such as the Canadian National Railways, the Central Mortgage and Housing Corporation, the Canadian Radio and Television Commission and the Canadian Broadcasting Corporation do not have a Department of Justice Staff attached to them and the by-laws of these bodies so far as they deal with internal administration are excluded from the definition of "statutory instruments" and are therefore not subject to the Statutory Instruments Act. (Page 21, Column 2, - Main Report)

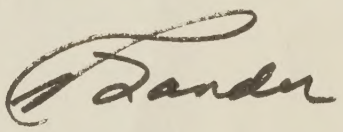
- Since the completion of the Select Committee's Report, the Parliament of Canada has passed an amendment of the Statutory Instruments Act (S. of C., 1974 - 75, Chapter 20) which repeals the provisions of the Statutory Instrument Act establishing a committee in charge of the preparation of a consolidation of regulations and confers that duty to the Statute Revision Commission which is now established by the same Act and charged with the additional responsibility of maintaining a continuing revision and consolidation of statutes and regulations for Canada.

January 30, 1975

TO THE HONOURABLE
THE SPEAKER OF THE LEGISLATIVE ASSEMBLY
OF THE PROVINCE OF ALBERTA

I, the undersigned, have the honour to submit the following Report of the Select Committee of the Alberta Legislature on Regulations to the Third Session of the Seventeenth Legislature.

Respectfully submitted,



Rudolph Zander, M.L.A.
Chairman

MEMBERS OF THE COMMITTEE

NAME	CONSTITUENCY	
Mr. Rudolph Zander (P. C.)	Drayton Valley	Chairman
Mr. Edward P. Benoit (S. C.)	Highwood	Member
Mrs. Catherine Chichak (P. C.)	Edmonton Norwood	Member
Mr. Robert C. Clark (S. C.)	Olds-Didsbury	Member
Mr. Bill W. Diachuk (P. C.)	Edmonton Beverly	Member
Mr. Graham L. Harle (P. C.)	Stettler	Member
Mr. Edgar W. Hinman (S. C.)	Cardston	Member
Mr. Calvin E. Lee (P. C.)	Calgary McKnight	Member

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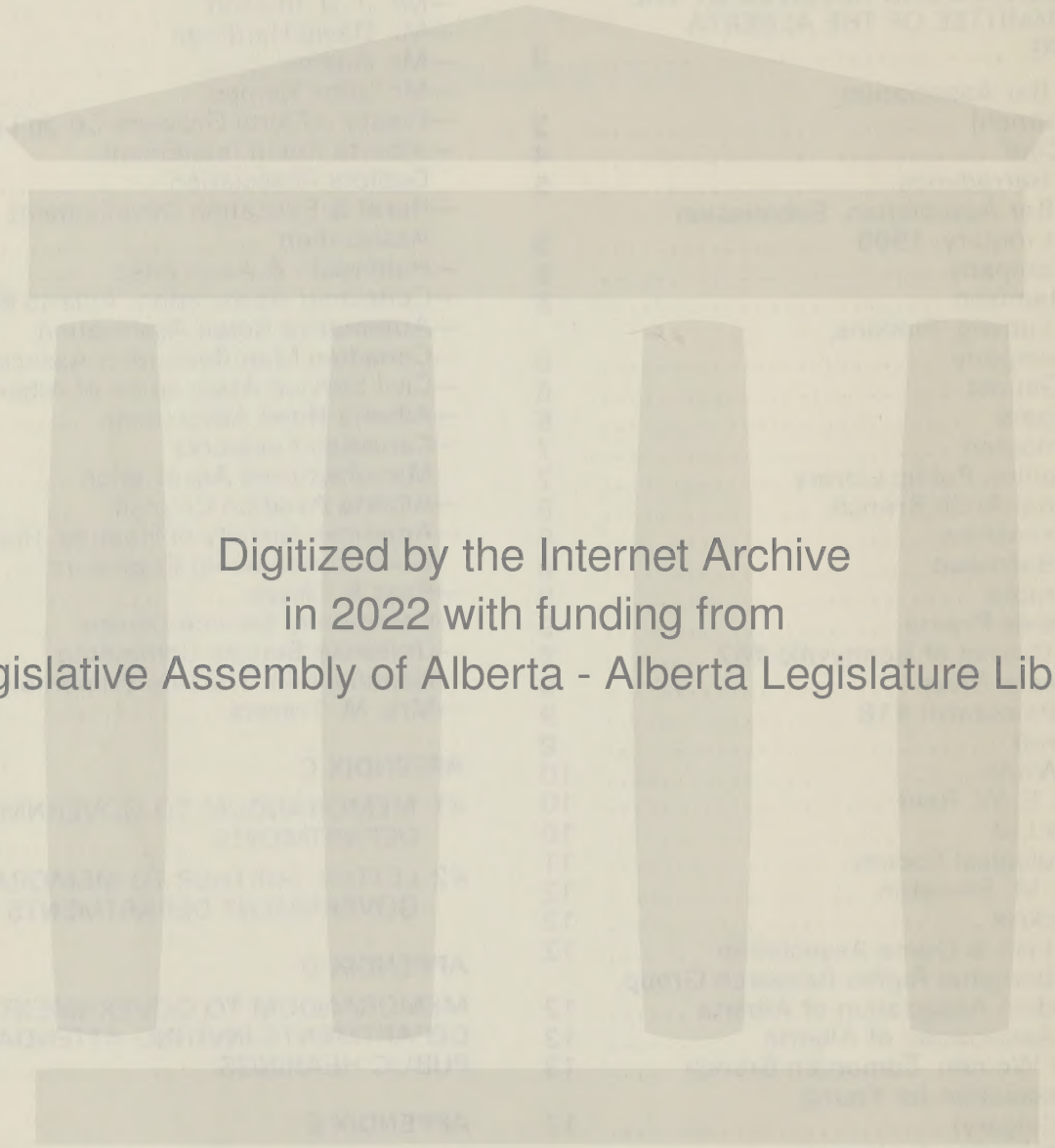

APPENDIX A

FURTHER COMPARISON ON HISTORY AND ORIGINS

1. FRANCE

Though France began her parliamentary institutions at almost the same time as England (the Etats-Generaux - National Assembly of France sat for the first time as an Assembly in 1302) development thereof to the degree of refinement evidenced in England did not occur until after 1789. Originally the Etats-Generaux was relegated to a mere non-compulsory advisory capacity and after 1614 it was not called again for some 175 years. Then for some further hundred years, the position of a parliament in France wavered between republican supremacy, parliamentary sovereignty, empire absolutism, and a parliamentary republican system. However, since 1875, or the First Parliamentary Republic, various and modified systems of parliamentary supremacy have ruled France with but brief intervals of dictatorship during the wars.

As the role of French Parliament was relatively subdued and even negligible until after the French Revolution of 1789, the only substantial examples of subordinate legislative power as delegated by parliament, rather than the direct royal prerogative which was in constant use, were simple custom duty ordinances. With legislative activities before 1789 totally in the hands of French sovereigns, the line between legislation and administration, statute and ordinance, was almost indeterminable.

While France wrestled with her constitutional problems, the use of delegated legislation was very restricted. During the time that an absolute ruler or sovereign reigned the royal or imperial prerogative was employed. While a democratic institution such as a Republic or Parliamentary Assembly governed extreme caution towards such instruments was exercised, undoubtedly because of the close association made with autocracy. However, as France's government institutions evolved and as her Parliament grew in confidence and power, the use of subordinate or delegated legislation by France's Parliament became as commonplace as it had become in England.

2. AUSTRALIA

At a very early stage in the development of Australian government all regulations were required to be laid before both Houses of Parliament. [1] The effects of such a provision, as prompted by the foresight of Sir John Latham (later Chief Justice of the Australian High Court), and subsequent amendments (1930 and 1937), were that any regulations not laid before both Houses within fifteen days of their making were void and of no effect. In addition, it was provided that any motion to disallow a regulation by either House, within fifteen sitting days of the laying of the regulations, unless disposed of or withdrawn, was deemed to disallow the disputed regulation.

This simple procedure has long been admired by other Commonwealth countries, however, it is not without weaknesses. The situation remains wherein a regulation, which may be particularly disdainful to Parliament, will nevertheless remain law and thereby operative until Parliament actually meets and a motion for disallowance has been made. Another defect in this system which is noteworthy is practicality of the procedure and thereby the actual operation of it. From 1945 to 1960 only two examples of motions to disallow a regulation were debated in the Australian House of Representatives and it appears that, although each member receives a copy of all regulations, this procedure has long since become a mere formality. A somewhat more responsible attitude has been taken by the Australian Senate. In 1932 a Senate Regulations and Ordinances Committee was established consisting of four nominees as chosen by the Leader of the Government and three by the Leader of the Opposition. This Committee examines regulations and ordinances according to prescribed principles of scrutiny as adopted in 1938:

"(a) that they are in accordance with the statute;

(b) that they do not trespass unduly on personal rights and liberties;

(c) that they do not unduly make the rights and liberties of citizens dependent upon administrative and not upon judicial decisions; and

(d) that they are concerned with administrative detail and do not amount to substantive legislation, which should be a matter for parliamentary enactment."

In this review no investigation of the substantive merits of government policy behind a regulation is undertaken and such is probably the major reason for the Committee's strength and success. The Committee meets at least once a week during the sittings of Parliament and it is not uncommon for it to meet monthly during recess. For its ever expanding work load an adequate staff has been appointed which consists, in addition to part-time help and expertise, of the services of at least one full-time secretary and a well qualified legal adviser. In addition to an initial perusal by this staff of all regulations and ordinances, the regulations and ordinances are forwarded to an independent legal adviser who reviews them along the terms of the scrutiny principles established for the Committee and he reports his findings to the Committee. The reports of both legal advisers are discussed and compared and then the points raised are usually taken up with the department proposing the regulations.

The Senate Regulations and Ordinances Committee has the power to send for persons, papers and records and to sit during recess. The Committee makes free use of these powers and usually calls not only all documentation on a matter from the various departments but corresponds and discusses the matter with the concerned departmental officers and public agencies. As a result of these steps the Committee seldom finds it has to follow the course of moving to disallow a regulation and so reporting to the Senate. In practice this Committee has been found rather to follow the course of negotiation and persuasion in deference to outright criticism and

[1] (Australian Statutes, 1904, Interpretation Act, s. 10)

disapproval. It is well known that Ministers and Departments are most anxious to meet the wishes of the committee and the principles of scrutiny established by the committee seem to be well in mind in all preparatory drafting. Accordingly, the work of the committee is to a large extent preventative as well as curative.[2]

3. NEW ZEALAND

The first **Regulations Act** of New Zealand in 1936 merely provided for the printing and publication of statutory regulations defined as such by the Attorney General. Until 1962, approximately half the statutes of New Zealand conferring legislative authority required the subsequent laying of regulations before Parliament. In that year the **Regulations Amendment Act** standardized the procedure of laying regulations; the regulations as printed and published under the Regulations Act were mandatorially required to be laid before Parliament within twenty-eight days.

Today the usual procedure followed on laying a regulation before the New Zealand Parliament is to accept the papers for consideration, subject to the nay motion of any member regarding any paper. The result of a motion in Parliament to consider a paper proposed can be a resolution to disallow, which, if affirmed, negates a regulation. Such a motion has not been entertained since the 1932 **Public Safety Conservation Act Regulations.**

A unique procedure whereby debate on regulations is assured follows that used in such particular instances as the **Agriculture (Emergency Powers) Act,** 1934, **Primary Products Marketing Act,** 1953, and the **Public Safety Conservation Act,** 1932. This procedure requires that regulations laid under any of the aforementioned acts lapse unless they are confirmed by an Act of Parliament. The result of such a provision is an annual debate on the Regulation Confirmation Bill wherein proposed regulations automatically become the subject of Parliamentary attention.

However, New Zealand has had its share of criticism of government by regulation. In 1939 a reply to the Throne Speech alluded to abuses in the regulatory process under the **Social Security Act,** 1938. In 1945, after a ruling that:

> ". . . all regulations of the past can be discussed by the House. . ."

a debate on war supply regulations arose which lasted several hours into the next day.

The lack of a legislative Committee on regulations in New Zealand does not appear to be a matter of pressing concern in that country. Perhaps the fact that New Zealand enjoys a very efficient, though not speedy, loose-leaf system of regulation publication with updating as supplied by a commercail publisher has something to do with this lack of concern. In any event, with the mandatory laying of regulations before Parliament, theoretical supervision, at least, does occur in New Zealand.

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[2] (The Speaker and The Clerk - Practice and Procedure - Address by Senator P. D. Durack to 1st Australian Parliament Seminar, 8th September, 1972.)

APPENDIX B

SPECIFIC SUBMISSIONS RECEIVED BY THE SELECT COMMITTEE OF THE ALBERTA LEGISLATURE ON REGULATIONS.

The following is a summary of the oral and written submissions received by the Select Committee. All submissions and briefs have been condensed and therefore, it is suggested that some caution should be taken when referring to a specific point as described herein.

Due to the specific scope of review assigned this Committee and the lack of technical expertise, Committee comments on many submissions consist of nothing more than a positive or negative reaction. It is hoped that the general body of this report and the recommendations contained therein will, when implemented, serve to resolve many of the difficulties with the present system of regulations in use in the Province of Alberta.

CANADIAN BAR ASSOCIATION (ALBERTA BRANCH) — (Oral)

Nature of Submission:

The brief of the Alberta Branch of the Canadian Bar Association proposed that a Committee of the Legislative Assembly be established to review regulations as enacted or administered:

(a) To ensure that regulations are clearly within the governing statute and do not create policy;

(b) To ensure that regulations under one statute are compatible with those under another statute;

(c) To ensure that regulations are being properly administered and that policies are not being formulated without prior primary legislative enactment;

(d) To ensure that a continuing review by a Committee of the Legislative Assembly should be undertaken whereby both public and civil servants have a recourse. (This procedure would reserve to the Legislative Assembly its prerogative power of legislating).

The Alberta Branch made the following recommendations regarding publication of regulations:

(a) Regulations should be consolidated more frequently or alternatively regulations should be published in a loose leaf form so that at any given time there is, in essence, a consolidation. However, in order to assure that all regulations can be properly accounted for, they should continue to be published in the **Alberta Gazette**.

(b) The present indexing system should be expanded to include complete subject matter coverage as well as the present breakdown under individual statutes.

The Alberta Branch further submitted that the existing definition of a "regulation" may not be practical and has suggested that a Committee of the Legislative Assembly should review that definition.

It was suggested that wherever possible draft regulations should be circulated amongst interested persons and amongst those "industries, etc." to be affected, prior to the filing of such in order to obtain comments on the practicality of administering the proposed regulations.

It was the submission of the Alberta Branch that the matters considered by the Select Committee on Regulations were quite fundamental to the proper operation of a democratic society. Towards an explanation of that comment, it was suggested that the prerogative to enact legislation should follow up subordinate legislation and ensure that such does not exceed the authority proposed or intended by the statute.

The opinion was expressed that a Committee which represents and includes individuals from both sides of the Legislative Assembly may well offer a new appraoch to the proper review of legislation. The hope was expressed that a considerable degree of objectivity may be injected into such a Committee and that the existence of such may help to do away with present inequities.

Specific comments were made by the attending members of the Canadian Bar Association on the following matters:

(a) That the Registrar of Companies should not be instructed to perform a more detailed review of the memorandum and articles of various corporate bodies. In support of this, the view was expressed that the bylaws, memorandums and articles of various corporate bodies are really constitutions and as such, they should not be questioned except as to compliance with the prescribed form.

(b) It was generally agreed that municipal bylaws should be filed in some central place, however, there was some doubt as to the practicality of that suggestion.

(c) Regarding the publication of regulations, the view was expressed that cost was basically not a factor in this matter. It was suggested that most of the lawyers in this province would be quite willing to pay a reasonable amount for a complete and up-to-date set of regulations with a view towards a continuing subscription of the regulations. This, of course, would be on the condition that a proper index could be provided.

Committee's Comments:

The Committee found merit in the comments and suggestions of the Canadian Bar Association and wishes to express general approval on the majority of these comments and suggestions. A large number of these comments and suggestions have been dealt with in the general text of this report. In studying this brief the Committee recommends acceptance of the following propositions:

(a) That a more adequate definition of "regulation" is necessary in the **Alberta Regulations Act** and that this definition must be broad enough to include, where necessary, such matters as

Orders-in-Council and Ministerial Orders where these prerogative instruments affect the general public. For these purposes, example can be taken from the definition section of the **Statutory Instruments Act** of Canada, 1971, chapter 38, wherein a more inclusive definition of regulation (statutory instruments) has been attempted.

(b) That in the interests of security, or where publication is not justified (as not affecting the public in general or being of such a volume as to make publication impractical) there should be an exception to the requirements of publication under the **Regulations Act** but under no other circumstance.

(c) That the publication and distribution of regulations must be centralized and the office of the Queen's Printer would seem to be the most logical place.

(d) That regulations continue to come into effect on the date of filing but that publication be required within 30 days of proclamation and in the absence of publication, a regulation should lapse.

(e) That immediate consolidation and revision of regulations be undertaken, and that this consolidation be in a loose leaf form with updating supplements printed on loose leaf pages. That this publication be available through the Queen's Printer. Further, that this consolidation also be available in a hard-bound form with continuous hard-bound volumes.

(f) That a proper system of indexing all regulations and statutes must be prepared and that this system of indexing include a statute title indexing, a subject matter indexing, the "Golden Rod" indexing and an adequate cross-referencing of subject matter.

(g) That "Henry VIII clauses" be eliminated from legislation wherever possible and that subjective limits to the power to make regulations be set out in any regulation-making empowering clause.

(h) That there should be a continuing review of regulations by a Committee of the Legislature and that committee should consist of members of the Legislature. Such a committee should review regulations immediately after filing and should have all the usual powers of a standing committee of the Assembly including those to call witnesses and hold public hearings. That this committee should report to the Assembly recommending such changes or revisions as it sees fit.

(i) That it may be desirable fo file all municipal by-laws in one central place and this suggestion should be considered by the Minister responsible for Municipal Affairs.

MR. J. E. COTE — (Oral)
Barrister & Solicitor

Nature of Submission:

For the most part, this submission contained general suggestions about Alberta regulations and the system employed in Alberta regarding subordinate legislation.

Some specific comments made by Mr. Cote relate to the need for consolidation of regulations after they have been amended more than five times. It was also suggested that the index to the regulations should show which section of the regulation has been amended (in the same manner as the pink table in the annual Statutes of Alberta shows which sections have been amended).

Another specific suggestion is that regulations should be cross-indexed under subject headings in addition to the existing subject title index system.

It is also recommended that a complete revision and consolidation of Alberta regulations should be undertaken as soon as possible in order to avoid a duplication of the existing nightmares found within the covers of the **Canada Gazette.**

Mr. Cote also gave the following suggestion re-regarding what he felt should be a typical general regulation-making empowering clause in an Alberta statute:

(1) The Lieutenant Governor-in-Council may make such regulations, not inconsistent with any of the provisions of this Act, as are necessary to settle the details of carrying out of the provisions of this Act according to its intent.

(2) Regulations made under sub-section (1) shall cease to have any effect after the last day of the next ensuing session of the Legislature."

On the subject of indexing, Mr. Cote stated that the dual system of indexing would undoubtedly be the most preferable. This system is identical to that proposed in the Problem section of the Report and it was suggested by Mr. Cote that such a system would serve the purposes of all involved with regulations.

On the subject of consolidation and revisions, Mr. Cote was reluctant to suggest that a loose leaf system be employed. It was his submission that a loose leaf system was an attractive administrative tool but that the hard-bound system would have to be maintained for general distribution to the legal profession. He was amenable to the proposition that the loose leaf system for regulations be employed with a set-up whereby supplements are put out in consolidated form with the possibility of substitution incorporated therein. It was pointed out that the mechanics of such a system may be very difficult to develop.

On the subject of accessibility to municipal by-laws, Mr. Cote suggested that almost every municipality in this province was faced with the same problem; a solution might be to require municipalities to provide a consolidation of all bylaws

in effect to a central registry within three years. However, he would not make any commitment on whether or not such a requirement would be practical and reasonable.

Mr. Cote voiced his wholehearted support for the proposal that a Committee of the Legislature be established to take up a continuing scrutiny of subordinate legislative instruments and suggested that such a Committee would undoubtedly require independent expert legal advice as well as the expertise of members of the Legislature from both sides of the House.

During Committee discussions with Mr. Cote, there was some considerable time spent on the subject of department guidelines and he suggested that these guidelines should also be subject to Committee review, particularly when they have been in existence for some time. However, there was some doubt expressed as to the validity or even necessity of a requirement that such guidelines be published.

Again, on the subject of a Standing Committee of the Legislature to consider regulations, there was some discussion about a Cabinet Committee reviewing regulations prior to their consideration by the entire Cabinet. On this point, it was determined that such a Committee would have to be comprised of government members who would be empowered to consider not only form and draftsmanship but basic policy behind the regulations proposed. In regard to a post-enactment review, Mr. Cote stated that a Standing Committee reviewing regulations subsequent to their consideration by this Cabinet Committee and subsequent to their enactment would have an effect similar to that of a timelock on a bank vault. "Just because the bank had never been robbed did not prove the lack of necessity for a timelock." In other words, the mere existence of such a Standing Committee, whose work in majority would admittedly be drudgery, would have the effect of causing more careful review of regulations before they ever came to the Committee, and indeed, before being proposed for enactment.

Committee's Comments:

The Committee has considered all of the matters commented on by Mr. Cote and has dealt with them in the Areas of General Concern Chapter of this report.

MR. A. M. HARRADENCE — (Oral)

Nature of Submission:

This submission dealt with the subject of regulations in general. It was noted that a regulation is a necessary and critical extension of the legislative and executive function designed to facilitate administration. It was further mentioned that the impact of a regulation on the public can be far more immediate than the general empowering legislation.

The subject of judicial review was discussed and it was pointed out that regulations can be challenged in the court on the circumscribed ground of legislative **ultra vires.**

The need for proper supervision of subordinate legislation was commented on in this submission and it was suggested that the Legislature should exercise its designated role in this regard.

Finally, the need for an **Administrative Procedures Act** was discussed and it was suggested that legislation similar to that passed in Ontario should be considered by this province.

Committee's Comments:

The Committee discussed and found acceptable these general comments relating to regulations and outlining the need for more specific and precise language in legislation, the elimination of uncontrolled generality of language, the separation of substance properly subject to judicial review and matters of purely technical non-contentious natures not subject to review and the obvious need to create a rational process in order to properly supervise the subordinate legislative function.

The Committee made no specific comments on the suggestion of a Administrative Procedures Act in this province and suggests that this subject be referred to the Attorney-General's department for further consideration.

CANADIAN BAR ASSOCIATION, SUBMISSION TO CLEMENT INQUIRY, 1965 (Written)

Nature of Submission:

This submission really consists of a brief by the Alberta Branch of the Canadian Bar Association on administration in government submitted to the **Clement Inquiry on Boards and Tribunals, 1965.**

Committee's Comments:

The Committee has considered this brief throughout the course of its deliberations and recognizes it as a valuable contribution to any study of this area of the law. Many of the general comments and ideas expressed in that brief are reflected in the final report of this Committee.

GULAK & COMPANY, BARRISTERS & SOLICITORS — (Written)

Nature of Submission:

It was suggested that regulations are not nearly as accessible as statutes and that serious consideration should be given to the publication of regulations annually in a form similar to the publication of statutes so that they are more readily available to the legal profession and to the public.

Committee's Comments:

The Committee has dealt with the matter of accessibility of all Alberta regulations in the general body of this report.

EMERY & JAMISON, BARRISTERS & SOLICITORS — (Written)

Nature of Submission:

This submission consisted of a general comment about Alberta regulations and that some mechanism should be provided for publication of regulations before they become law. It was suggested that affected parties should have the opportunity to respond to proposed regulations and that as a result of such a procedure better legislation would inevitably result. It was noted that several other countries provide for the laying of regulations before Parliament prior to their taking effect.

Committee's Comments:

The Committee has dealt with this submission in the general body of this report.

DOWNTON, LUDWIG, PLOTKINS, HIGGS & COMPANY BARRISTERS, SOLICITORS & NOTARIES PUBLIC — (Written)

Nature of Submission:

It was suggested that all regulations be published in loose leaf form similar to the commercial legal publications. It was submitted that regulations, when amended, could be reprinted and one would not have to go through the various years in order to ascertain all the pertinent regulations dealing with a particular subject. It was further noted that some commercial legal publications use a format in publication whereby sections that have been deleted are dated and printed in fine print in the margins along with the new sections. It was suggested that such a system could be adopted by the Alberta Government and would not only be of great assistance to members of the legal profession but would also adequately inform the public as to the present state of law.

Committee's Comments:

The suggestion that regulations be printed in loose leaf form has been considered and discussed in some detail in the general body of this report. The Committee suggests that the printing of old sections in the margins of an updated loose leaf system may be a possible answer to the problems raised in the Consolidation and Revision portion of this report.

MR. E. H. GAUDET — (Written)

Nature of Submission:

As a result of his experience in the legal profession, Mr. Gaudet made the following suggestions to the Committee:

—that there be a regular review of regulations with the possible intervention of an "Ombudsman" to deal with problems and conflicts as they are pointed out to the government.

—that no regulation become effective until after it has been published in the **Alberta Gazette** and that absolutely no regulation should be retroactive in effect.

—that there was far too much legislating by regulation and that the Legislature should take on the responsibility of drafting suitable and complete legislation which will not require ministerial intervention.

Committee's Comments:

The Committee has dealt with all of the issues raised by Mr. Gaudet in the general body of the report.

CITY OF CALGARY — (Written)

Nature of Submission:

The City of Calgary was unable to attend at the Public Hearings held on September 4 and 5, 1973. However, a written submission made on behalf of the Board of Commissioners for the City of Calgary was received by the Select Committee.

The specific subjects of concern brought out in that written submission were as follows:

(i) Apprenticeship, automotive and heavy duty mechanic (Alberta Regulation #387/65) - it was submitted that the existing regulations should be amended to require additional training in the automotive field, in particular, to provide for a broadening of knowledge in the area of hydraulics and of compression ignition (diesel). In addition, some cognizance of noise and emission controls should be required of all mechanics.

(ii) Amendments to **The Highway Traffic Act** and regulations were suggested in the following areas:

(a) Re-institution of the yearly Vehicle and Inspection Program for all vehicles and requirement that this inspection be mandatory (**Highway Traffic Act,** R.S.A. 1970, c. 169, s. 236).

(b) Enforcement of proof of valid financial responsibility upon receipt of vehicle license plates. (**Highway Traffic Act,** R. S.A. 1970, c. 169, s. 246).

(c) Class #1 licenses should not be mandatory for persons who drive trucks with a gross weight of less than 24,000 pounds who may be required to tow attached trailers, such as, tar kettles, compressors, tool boxes and work shacks, providing however, the combined units do not exceed 41,000 pounds gross (**Highway Traffic Act,** R.S.A. 1970, c. 169, s. 9a, ss. 3).

(iii) **Provincial Planning Regulations:**

(a) Clause 25-2 states in part "in each sub-division a reserve shall contain such area of land, not being more than 10% of the land being sub-divided". Clause 26-1 allows for a deferment of the 10% until further sub-division is made and also provides for a payment in lieu of dedication. The opinion was expressed that such a provision should also make a waiver for Community Reserve Dedication when a municipality sub-divides a parcel of land in order to facilitate the construction and development of a public facility, i.e. police precincts, fire halls, hospitals, libraries, etc.

(b) In cases where owners are consolidating holdings, the 10% Community Reserve Dedication is not justified since the land has been previously subject to normal sub-division regulations.

(iv) Relocation of the Provincial Department of Health and Social Developmetn circular #22, July 10, 1970, Part C, which states that a person who is unemployed but employable must demonstrate need in order to apply for money for clothing or personal or household incidentals on a regular monthly basis. Full allowance should be issued to all citizens found eligible for Social Insurance and the "demonstrated need" approach should be terminated.

(v) The present waiting period under the Alberta Health Care Insurance Plan of three months following enrolment prior to receipt of benefits should be eliminated in the case of persons eligible for financial assistance.

(vi) Standards for Day Care in many Alberta acts and regulations should be consolidated.

Committee's Comments:

The Committee recommends:

(i) Course content in apprenticeship instruction as taught either by journeymen or in prescribed courses and is not at present controlled by regulations but rather is set by established guidlines of the Apprenticeship Board. The Committee recommends that the Minister in charge be apprised of this expressed need for greater training in the area of hydraulic and mechanic compression ignition and of noise and emission controls.

(ii) (a) The Committee regards the re-institution of vehicle inspection programs as a matter of government policy and has no comments to make thereon.

(b) The subject of enforcing proof of valid financial responsibility is dealt with under the **Highway Traffic Act** and not under a regulation.

(c) The Committee would refer the Class #1 license suggestion to the Minister of Highways and Transport.

(iii) The Committee finds considerable merit in the waiving of the 10% reserve requirement set out by the Sub-division and Transfer Regulations of the **Provincial Planning Act** where a parcel of land is sub-divided in order to facilitate the construction and development of a public facility.

(iv) The Committee refers the issue of Welfare Assistance and Alberta Health Care Benefits to the Minister of Health and Social Development. This circular is an example of the guidelines and policy statements which may merit review and consideration for possible inclusion as primary or subordinate legislation.

CITY OF EDMONTON — (oral)

(a) EDMONTON PUBLIC LIBRARY

Nature of Submission:

The Edmonton Public Library presented its submission in support of a proposal to the Attorney-General of Alberta and the administrator of the Private Investigators and Security Guards Act to have security staff at the Edmonton Public Library dress in more casual uniforms. In particular, this proposal seeks a less formal uniform such as slacks and blazers with identifying badges — an apparel more in harmony with the intended atmosphere at the library.

It is noted that an exact definition of a uniform for a security guard under the **Private Investigators and Security Guards Act Regulations (568/65)** is not provided and that the matter is left to the discretion of the administrator of that Act. It was suggested that a definition of uniforms should be provided in the regulations and that definition should be contingent upon the type of job which a security guard is employed to do.

Committee's Comments:

The Committee studied Alberta Regulation 568/65 and the amendment regulation #188/73. The Committee noted that even after the passing of Alberta Regulation 188/73, the administrator maintains the power to determine what is a proper uniform under the Act, in particular, his approval in writing must be obtained for any uniform to be used.

The Committee suggests that the regulations defining uniform under the **Private Investigators and Security Guards Act** would appear to be more than adequate. However, a review of the same by the Attorney-General's department is recommended with a view towards more specific description of the "uniform" and further elimination of the administrator's discretion.

In relation to the particular problem of the Edmonton Public Library and its desire to dress security guards more informally, it has been suggested that the Library Board rather than hiring from independent contractors could employ its own staff specifically for the task of performing the

present functions of security guards now hired under private contract. In this manner, the Library Board would be able to dress its staff in the manner deemed appropriate.

CITY OF EDMONTON — (Oral)

(b) INTERNAL AUDIT BRANCH — FINANCE DEPARTMENT

Nature of Submission:

It was submitted by the City of Edmonton Finance Department that Alberta Regulation #71/71 under the **City Transportation Act**, Chapter 47, R.S.A. 1970, contains difficulties:

1. Section 12, sub-section 2 requires that all documentation for engineering jobs by the City of Edmonton be maintained for a period of five years.

   It was suggested that this requirement is very burdensome on an already space compromised City Records Department. It was suggested that retention of such records be required only for a period of two years with provision for micro-filming of the more important portions of the records and some type of summary financial statement for permanent retention would be more than sufficient for all purposes.

2. Form 7, Parts 2 and 3 require that a Certificate of Audit be signed by an accredited auditor. This Certificate of Audit requires a statement of fact by the attending auditor that all records have been found to be correct and complete in all respects.

   It was submitted that such a statement is not practically possible. In substitution of this statement of fact, it is proposed that a statement of opinion along the following lines be employed: -

   CERTIFICATE OF AUDIT

   I have examined the statement of costs for the above mentioned project for the period ending _____. My examination includes such tests of accounting records and other supporting evidence as I consider necessary in the circumstances.
   In my opinion, the statement presents fairly the costs of the project as set out in the claim.

   X _____
   Auditor.

Committee's Comments:

The Committee is sympathetic with the problems presented in keeping records for a prolonged length of time. It would appear that a five year retention period for such records is usual, and on this point, the Committee referred to the Federal Department of Transport record retention requirements. In order that this matter might be more expertly dealt with, the Committee proposes that the Minister in charge review the possibility of microfilming.

With regard to the audit certificate comments made by the City of Edmonton Finance Board, the Committee recommends that a statement of opinion similar to that proposed by the City of Edmonton Finance Department be employed by the Department of Highways and Transport.

TOWN OF GRIMSHAW — (Written)

Nature of Submission:

This submission states that various Alberta regulations incorporate by reference such things as "Recommended Design and Standards". For instance, in Alberta Regulation 39/73, Section 2 (2), it is provided that swimming pools be designed to meet the requirements of the most recent edition of the **Recommended Swimming Pool Design and Operating Standards**, or to a design required by the Director of Standards and Approvals.

It was suggested that this method of incorporating by reference various standards and designs, etc. as contained in pamphlets or manuals is improper and that such standards and designs, where a mandatory part of the regulations, should be directly incorporated into the regulations.

It was suggested that this method of incorporation by reference is improper and makes the availability of applicable legislation even more cumbersome than that of the present availability of regulations.

Committee's Comments:

The Committee regards this example as an illustration in the problem area of accessibility. The Committee has earlier in this report dealt with the problem of accessibility of the regulations and policy guidelines and manuals and would suggest that the practice of incorporating by reference a mandatory part of regulatory detail is highly improper. The Committee recommends that such items as recommended design and standards, manuals or guidelines should be incorporated directly into the regulations.

COUNTY OF BARRHEAD #11 — (Written)

Nature of Submission:

The County of Barrhead suggested that all statutes and regulations be combined and consolidated into one book. It was suggested that this process would greatly facilitate the availability of statutes and regulations.

Committee's Comments:

In the main portion of this report the Committee recommends an immediate consolidation of Alberta regulations.

TOWN OF BROOKS — (Written)

Nature of Submission:

It was suggested that the Department of Municipal Affairs send copies of all regulations dealing with municipalities to the various provincial municipal offices. It was further suggested that these regulations could be bound in a booklet form and that if this task became too burdensome then it should at least be the responsibility of the Department of Municipal Affairs to bring to the attention of Alberta municipalities those regulations that effect the operation of a municipality.

Committee's Comments:

The proposal as put forth by the Town of Brooks has been forwarded to the Department of Municipal Affairs and the Committee endorses this idea as one of the solutions to the problem of accessibility.

CITY OF GRANDE PRAIRIE — (Written)

Nature of Submission:

Concern was expressed that the presently existing Alberta Regulations are of such a volume that they fill an entire book shelf. It was suggested that regulations should be divided between those of a limited interest (which should be published separately) and those of general concern (which should be available as are the statutes). It was further suggested that after one or two minor changes in a regulation or after a major change in any regulation that the old regulation should be cancelled and a new regulation passed.

Committee's Comments:

Apart from the recommendations of the Committee in the general body of this report with regard to preparation of consolidations and the need for accessibility of regulations, the Committee suggests that the proposal of a split of regulations according to interest has merit and suggests that the Registrar of Regulations consider such a separation in the future. The Committee suggests a syllabus approach to the problem wherein regulations of general public concern would be categorized separate from those of concern to a smaller private sector. In the end, it is hoped that the office consolidation approach, wherein regulations of particular concern would undoubtedly be of less demand, would eventually solve the problem.

MUNICIPAL DISTRICT OF BONNYVILLE #87 — (Written)

Nature of Submission:

It was suggested that the regulations be revised and consolidated every five years. It was further suggested that new regulations and amendments to regulations be available from the Queen's Printer and that service from the Queen's Printer be more prompt.

Committee's Comments:

This suggestion is dealt with in the general body of the report.

TOWN OF PEACE RIVER — (Written)

Nature of Submission:

Concern was expressed with the fact that there are such a large number of regulations in existence that a review of all of them may well be impossible. Particular concern was expressed with Alberta regulation 34/66 which provides for equalized assessment under the Municipalities Assessment Equalization Act.

Committee's Comments:

The Committee was unable to obtain precise details from the Town of Peace River about the particular concern with Alberta regulation 34/66.

COUNTY OF PAINTEARTH #18 — (Written)

Nature of Submission:

Concern was expressed with those portions of the Sub-division and Transfer Regulations that provide for Department of Highways control over all construction within one thousand feet of a numbered highway. The County council suggested that five hundred feet would be more than adequate.

Committee's Comments:

The Committee recommends that the Minister of Highways and Transport review this requirement and consider whether or not the one thousand feet requirement is necessary. Further to this matter, the Committee suggests that any such control be seriously considered as to whether or not it constitutes expropriation without compensation.

WHITE & TROTT, BARRISTERS & SOLICITORS — (Written)

Nature of Submission:

It was suggested that the present Transfer and Sub-division Regulations be amended to include the requirement that a dower consent affidavit be on every sub-division application so that the present dower laws in this province cannot be circumvented by the sub-division and transfer of land.

It was also suggested that the bonds required of real estate agents and auctioneers are inadequate and should be increased considerably.

Committee's Comments:

The Committee endorses the recommendation that a dower consent form and affidavit be required of every registered owner on sub-division application and suggests that the Minister of Municipal Affairs consider this proposal.

The Committee lacked the necessary expertise to determine what amount would be appropriate by way of bond in the two instances and recommends that the Minister of Consumer Affairs study this proposal and consider what may be an appropriate increase in bonding requirements.

MR. D. H. WHITE — (Written)

Nature of Submission:

The specific concern by Mr. White relates to the **Expropriation Act.** With rapid urban development and with the ever-increasing number of homes being expropriated, it was suggested by Mr. White that any expropriated individual should be provided with another structure of a similar nature. In the alternative, it was suggested that any individual whose dwelling is expropriated should be reimbursed for the full replacement value of the property expropriated. In the event that property of a similar value is not available, it is suggested that relocation to a property of a value reasonably greater than that of the property expropriated be considered. In the event that it is not possible to find property of a reasonably greater value of such a nature as to satisfy the expropriated party then relocation to a property of a lesser value plus a cash difference settlement should be made. It was also suggested that single cash settlement should always be made to offset tax increases or additional mortgage payments as such differ between properties acquired and properties expropriated. Finally, it was suggested that all expropriated parties should be entitled to reasonable reimbursement for expenses incurred in relocating and that these expenses should include such things as legal fees, real estate commissions, moving costs, starting up costs for utilities and costs incurred during the intermediate period of the move.

Committee's Comments:

The Committee acknowledges the submissions and suggestions of Mr. D. H. White and note that the Legislature has now passed an **Expropriation Act** along the lines of a "house for a house" concept.

MR. & MRS. E. W. REID — (Written)

Nature of Submission:

It was submitted that the practice of requiring at least a one half acre parcel of land before allowing the drilling of a well and the laying of a sewage system is unfair to owners of small country acreages. It was suggested that such a requirement places an undue burden on a wage earner of modest means. The specific submission of Mr. and Mrs. Reid was: -

(1) No one should refuse permission for the sinking of a water well or the laying of a sewage system on residential property when no other facilities are available, or are soon to be made available.

(2) The minimum size of lots should not be increased any more and only the size of the residence should be limited according to the size of the property.

(3) Where there is more than one lot under a single title, the owner should be permitted to place his residence anywhere on the whole of the property within practical limits without regard to lot division. Likewise, his sewage facilities should be located having regard only to practicality.

(4) Authorities should not be permitted to make demands of a new owner that they have not already made of other residents in the area with regard to upgrading standards in housing or other facilities.

(5) Any house offered for sale as a "residence to be moved" should bear a health authority sticker stating that the house is fit for human habitation and is structurally sound for moving.

(6) Anyone buying a "residence to be moved" bearing the health authority sticker should be permitted to place the residence on his property without demands being made by authorities that he make alterations to the exterior, interior or size, provided that any damage incurred while moving is immediately repaired and the residence does not exceed the maximum size allowable for the property on which it will stand.

(7) Any person wishing to re-locate their residence if it is certified fit for human habitation before it is moved should be permitted to do so without demands being made that they alter the exterior, interior, or size.

Committee's Comments:

While the Committee is in general agreement with the idea that an individual should be able to establish and deal with his residence as he sees fit it is recognized that certain minimum standards are desirable. In this matter it may be that government authorities are enforcing statutes and regulations in such a way as to prejudice smaller property owners. Because all of the matters brought out by Mr. and Mrs. Reid deal specifically with problems that require a considerable degree of technical expertise and, in many cases, legislative amendment, the Committee refers these submissions to the Minister of Municipal Affairs for detailed study and consideration.

HOOK SIGNS LTD. — (Oral)

Nature of Submission:

This submission contends that the many and conflicting authorities regulating the appearance and placement of outdoor signs and billboards should be consolidated. It was noted that the Minister of Highways and Transport maintains control over all developments, including signs within 1,000 feet of a highway. It was also noted that each respective municipality maintains control to regulate the display and placement of signs within its boundaries under the Municipal Government Act. And finally, it was noted that the Regional Planning Commission has authority to make recommendations and suggestions to all municipalities on the placement of signs and billboards since they are classified under the general category of development.

The result is, it was submitted, that the existing authorities governing the placement and display of signs over-lap and conflict. It was suggested that the provincial government create a more uniform

and administratively simple procedure for the regulating of placement and display of billboards and such other outdoor signs as are in use in this province by establishing a single regulating authority.

It was suggested that the Edmonton Regional Planning Commission should have no authority over the regulation and placement of display of signs. Instead, it was suggested that traffic engineers and authorities from the Department of Highways should be the main authority and, in the case of municipalities, the consulting authority for all decisions on the granting of permits for the placement of signs.

Committee's Comments:

The Committee noted that the **Public Highways Development Act,** Chapter 295, R.S.A. 1970 - Section 26 (1) (g) allows the Minister of Highways and Transport to make regulations concerning various matters including the prohibiting, except under the authority of a permit, the display of a sign, notice or advertising device within such distance from the controlled highway as the regulations may prescribe. The regulations (Alberta Regulation 163/70) set out a distance from the highway within which a permit must be applied for and prescribes the form and method for application. It would appear that applications are received and considered by designated officials under the Minister of Highways and Transport who then makes a decision as to whether or not to allow signs.

The Committee also noted that the **Municipal Government Act** (R.S.A. 1970, c. 246, s. 163 (b) (c)) provides authority for a municipal government to the setting up and displaying of signs within its territorial limits. Finally, the Committee noted the fact that the Regional Planning Commission often exerts considerable influence on this decision-making process in the municipality.

The Committee is in general agreement with the proposition that the Regional Planning Commission play no role in decisions on the placing and displaying of outdoor signs. The Committee agrees with the proposal that the municipality, in consultation with the Department of Highways, make decisions on the placement of signs within its territorial limits and would suggest that the placement of signs outside municipalities should be the sole decision of qualified officials in the Department of Highways and Transport.

The Committee is also of the opinion that legislation and administrative policy may have gone too far in prohibiting the placement of signs in this province. It is suggested that there are two considerations to take into account when deciding whether or not to allow the placement of outdoor signs:

(1) Display of an address or conveyance of information about the proper identification of premises.

(2) Commercial advertising.

The Committee considers that the many regulations governing the display of signs of an identification or informational nature are far too restrictive. The Committee recognizes the need to balance these interests with concerns about appearances. However, the Committee suggests that a review of existing policies relating to the placement of some types of signs be undertaken with these matters in mind. In particular, the Committee is concerned about severe limitations in rural areas on the display of addresses adjacent to highways. It is felt that there has never been substantial proof that such signs represent a hazard to those travelling the highways. In light of these conclusions, the Committee recommends a complete review of this subject by the Minister of Highways and Transport and the Minister of Municipal Affairs with the view towards the creation of one body having complete control over the entire matter.

CALGARY ZOOLOGICAL SOCIETY — (Oral)

Nature of Submission:

The Calgary Zoological Society presented this submission with the objective of obtaining a specific act to govern the operations of zoos in this province. It was pointed out that, at present, zoos in this province are governed by three different statutes — **The Wildlife Act** (R.S.A. 1970, c. 391), **The Animal Protection Act** (R.S.A. 1970, c. 19), and **The Fur Farms Act** (R.S.A. 1970, c. 154), and the regulations thereto. All of these statutes and the regulations thereto relate to the obtaining and keeping of animals for commercial purposes and, for that purpose, prescribe fees and permits.

The Calgary Zoological Society suggested that present legislation in Alberta purporting to govern the operations of zoos was not passed in contemplation of the operation of public zoos and, in many instances, is either inadequate or too onerous. The Calgary Zoological Society seeks a legislative enactment specifically designed to govern the operations of non-profit public zoos.

Committee's Comments:

The Committee recommends a review by the Minister of Lands and Forests and other government departments responsible for the administration of the **Wildlife Act** (R.S.A. 1970, c. 391), **The Fur Farms Act** (R.S.A. 1970, c. 154), and **The Animal Protection Act** (R.S.A. 1970, c. 19), and the regulations thereto. The Committee suggests that the operations of public zoos merit specific legislative consideration and for that purpose recommend that a special act be passed or that a special section of the **Wildlife Act** be enacted exempting public zoos from the usual provisions of statutes now governing their operations and setting out proper legislative provisions passed in recognition of usual functions and operations of a public zoo. In this regard, the Committee also recommends that the Minister of Lands and Forests examine whether or not similar consideration should be afforded to big game farms and other organizations that put various animals on display for public enjoyment.

The Committee agrees with the suggestion that the various provincial agencies review the practice of charging operators of big game farms and zoos large amounts for animals intended for display.

MR. & MRS. M. SMEETON — (Oral)

Nature of Submission:

The main purpose of this submission was to seek an exemption from some of the **Wildlife Act** regulations relating to the tagging of animals. It was suggested that private big game farms operating on a non-profit basis and some zoos find the tagging of a normally wild animal to be a very detrimental factor to its health and something which may cause distrust between the animal and keeper.

Another issue brought to the Committee's attention is the policy of the various provincial agencies to sell large mammals for a considerable amount to operators of big game farms and zoos. It was suggested that non-profit organizations should not be required to pay for these animals.

Committee's Comments:

The Committee suggests that the tagging requirements should be waived only in exceptional circumstances. However, where a normally wild animal is to remain in a controlled habitat it would appear practical to waive tagging requirements under the **Wildlife Act** and regulations thereto. The Committee suggests that whenever such an animal must be moved or transported it should be temporarily tagged. It is also suggested that various government departments and wildlife experts should be consulted on other exceptions to the usual tagging requirements.

The Committee reiterates its recommendation made under the Calgary Zoological submission having regards to amounts charged for animals intended for display. The Committee agrees with the suggestion that non-profit organizations should receive animals for display without cost wherever possible.

MR. JEFF LICKISS — (Written)

Nature of Submission:

Mr. Lickiss expressed concern with the definition of "hunt" as stated in the Wildlife Act, Chapter 391, R.S.A. 1970. It was suggested that the "intention to kill" must be considered in order to arrive at a realistic definition of hunt.

Committee's Comments:

The Committee notes that this suggestion dealt with specific legislative change and suggests that the Minister of Lands and Forests review the definition of hunt.

EDMONTON FISH AND GAME ASSOCIATION — (Written)

Nature of Submission:

It was suggested that there are far too many regulations in existence to make possible any research and documentation which would be required to intelligently submit a brief. However, some general suggestions on improving regulations were:

—the putting of regulations into layman terms, the consolidation and revision of regulations, and review to ensure that they meet the purposes of empowering statutes.

It was suggested that the old axiom requiring everyone to know the law should be remembered and the feasibility of such a responsibility should be the measuring stick for all re-writes and amendments of regulations.

Committee's Comments:

The Committee is disappointed at the failure of this association to make any particular or substantail suggestions relating to regulations in the fish and game or in the wildlife area.

TREATY AND ABORIGINAL RIGHTS RESEARCH GROUP, AND THE INDIAN ASSOCIATION OF ALBERTA — (Oral)

Nature of Submission:

This group submitted a written brief as supplementary to their oral presentation. The contents of this brief set out a number of complaints made by Indian people in Alberta and generally across Canada.

It was suggested that Indian people suffer from high infant mortality and unemployment rates, low incomes, poor living conditions and inadequate education, all of which contribute to the restriction of growth and development of the Indian population in Alberta. It was noted that the Indian people in Canada are a special group of citizens and as such their rights and privileges as the native peoples of these lands are to be recognized and preserved on a special constitutional basis. Unfortunately, it was submitted, it often happens that this special status has a detrimental effect on the growth and development of Indian society.

It was noted that while Indian people in Canada are generally under federal jurisdiction, the provinces should co-operate with the federal authorities in the providing of existing necessary and essential services, such as district agriculturalists, provincial job placement services, court workers service, half-way houses, and other provincial education and social services.

It was suggested that the provincial legislative authority over various natural resources, welfare services, wildlife, and civil rights fails to take into account the native people of the province. It was urged that there is an immediate need to examine existing legislation and regulations to remove certain discriminatory practices against native persons. This group suggested that the following acts tend to discriminate against Indians of Alberta and their natural right to hunt and fish:

—Fish Marketing Act

—Forest Reserve Act

—Forest Act

—Wildlife Act

—Environment Conservation Act

—Wilderness Act

—Provincial Parks Act.

It was further commented that the total revenue resulting from Indian petroleum rights should pass into Indian hands without provincial royalties. On this matter the group claimed that such rights are the sole property of the Indian populace and beyond the competent jurisdiction of provincial authorities.

Committee's Comments:

In light of the recent passage of the **Alberta Bill of Rights** and **Individual Rights' Protection Act** and in light of the special status of Treaty Indians, the Committee recommends that there be an ongoing consultation between the Minister without Portfolio in charge of Indian Affairs and Northern Development and the representatives of the various native groups in the province. The Committee refers the suggestions in this submission to that Minister for consideration and review.

THE METIS ASSOCIATION OF ALBERTA — (Oral)

Nature of Submission:

The Metis Association of Alberta is concerned with the rights of Metis and non-status Indians in this province and, in particular, hunting and fishing rights. As Metis and non-status Indians, they are not given the same freedom to hunt and fish granted under the original Indian treaties. A large volume of the violations of the various provincial Acts restricting hunting and fishing are those committed by these Metis and non-status Indians.

It was submitted that the provisions of the **Wildlife Act** and other Provincial Acts restricting hunting and fishing in this province fail to take into account the basic needs of Metis and non-status Indians. It was further submitted that the penalty provisions under those Acts, although necessary for restricting sport hunting, are very discriminatory when applied against the Metis and non-status Indians.

It was noted that the provisions restricting hunting and fishing under the **Wildlife Act** and several other pieces of provincial legislation create quasi-criminal offences and as such exemplify a power that should not be delegated from the primary legislative jurisdiction of the Assembly.

It was proposed that hunting and fishing legislation in this province should take into account the basic needs of Metis and non-status Indian people to supplement their diet by hunting and fishing. Towards this end it was proposed that the existing Metis domestic hunting and fishing license is far too restrictive and in many cases discriminatory. On this point it was noted that a very small percentage of the Metis population in Alberta live north of the sixty-second township and it is only north of that township that such domestic licenses are in operation.

It was further suggested that regulations providing for forest rangers to issue such fishing licenses are discriminatory and contrary to normal judicial principles in that there is no appeal on refusal. In answer to the present system it was proposed that a permit system be employed and that to qualify for a hunting or fishing permit one must present evidence of need such as financial records showing income below a certain level. Such a provision would at least be a basic recognition of the dietary needs of Metis and non-status Indians in Alberta.

Committee's Comments:

The Committee considered the regulations under the Wildlife Act, the Metis Betterment Act, the Fish Marketing Act, and the Federal Fisheries Act. The Committee noted that all of these acts restrict hunting and fishing in this province. It was further noted that there is no exempting or licensing provision for the subsistence needs of Metis or non-status Indians. The Committee refers this matter to the Minister in charge for further consideration.

The suggestion that regulations under the **Wildlife Act** create quasi-criminal offences was discussed and the general principle was concurred in that under no circumstances should a regulation create an offence. For that reason it was recommended that those regulations under the **Wildlife Act** and other provincial legislation which tend to create offences and provide penalties should be considered for legislative amendment. It is also recommended that provision should be made for an appeal where the granting of a domestic fishing license is refused.

OPTIONS FOR WOMEN, EDMONTON BRANCH — (Oral)

Nature of Submission:

This brief was presented by the Edmonton Branch of the Options for Women Council in Alberta and has been supported by several other branches of the Options for Women Council in Alberta. The brief is intended to point out the various areas in Alberta legislation and regulations which tend to discriminate between the sexes.

The specific areas dealt with in this brief include:

(a) **Worker's Compensation** —
It was submitted that compensation regulations should clearly state that provisions applicable to the wife of a worker be also applicable to the husband of a worker. It is also suggested that these regulations should include common-law spouses.

(b) **Protective Labour Legislation and Regulations** —
It was submitted that changes should be made in protective labour legislation and regulations so that both sexes are treated equally.

(c) **Part-time workers and Household workers** —
It was submitted that part-time workers and household workers should be protected by Human Rights legislation, Worker's Compensation, Minimum Wage Laws and other Labour legislation in this province.

(d) **Maternity Leave** —
It was submitted that changes should be made in the **Labour Act** and the regulations thereto to recognize and include maternity leave as a worker's right.

(e) **Pension and Insurance Plans** —
It was submitted that changes should be made in Alberta legislation so that pension, insurance and other benefits or benefit plans of the government of Alberta can be administrated with no bias as to sex or marital status.

(f) **Government of Alberta Hiring Practices** —
It was submitted that changes should be made in the Government of Alberta hiring practices and selection standards so that proper assessment can be made of an applicant's volunteer experience, home-maker — manager experience and such other experience as may be properly evaluated in assessing the qualifications of applicants, and that the Government of Alberta "application for employment" form specifically include a space for such information.

(g) **Government of Alberta Pay Rates** —
It was submitted that pay rates for professionals, such as nurses, hospital aides, dieticians, home economists, librarians and social workers should be comparable to pay rates of private professionals such as lawyers and doctors.

(h) **Alberta Health Care Insurance (Regulation 153/70, Section 8, 9 and 10**
It was submitted that changes should be made in this regulation so that individuals can maintain their own Alberta Health Care Insurance number and make their own premium payments following marriage if they so desire. It is further suggested that where individuals in a family have different surnames those surnames should be so indicated on the certificate of registration and that either spouse in the family should be able to opt out of the Alberta Health Care Plan without affecting the remaining family members.

(i) **Change of Name Act (Sections 4, 5, and 7)**
It was submitted that changes of name in this province should be possible in a simple and uncomplicated manner and that a married woman should have the same rights as a man when applying for a Change of Name for herself or her children. It is also suggested that the change of name of one spouse should be accepted without seeking the consent of the other spouse and further that any such change of name should not apply to the other spouse unless a consent of that spouse is registered.

(j) **Children's Surnames** —
It was submitted that changes in all legislation, regulations, and government policies should be made so that married parents of different surnames may choose either surname for any of their children.

(k) **Election Act (Section 15 and Rule 6 in the Third Schedule)** —
It was submitted that changes should be made in this Act and the schedule thereto so that a married woman may register in her maiden surname if she has retained same following marriage. It is also suggested that any woman should be entitled to use the address Ms. before her name if she so desires.

(l) **Government of Alberta Forms, Applications, Etc.**
It was recommended that changes should be made in all such forms so that either: —

(i) None of the forms or applications issued by various departments in government include titles such as Mr., Mrs., or Miss, or,

(ii) If such titles are deemed necessary, that the option should be included of Ms.

(m) **Names and Titles**
It was submitted that further investigation should be made into this by the Committee so that all Alberta regulations and legislation administered by the Government of Alberta assure the equal rights of men and women in the use of name and title.

(n) **Marriage Act** —
It was submitted that changes should be made so that more people with a wider range of backgrounds can be licensed as marriage commissioners and that the appointment of new marriage commissioners should not be done by the chief marriage commissioner. It was suggested that the present administration of the **Marriage Act** is unfair to those individuals who do not choose to be married within the traditional religious setting — for example, in Edmonton the surroundings of the marriage office (the Alberta Block) leave much to be desired, and that the present hours of operation of the marriage office should be extended since they now tend to result in the assembly line processing of marriage certificates and ceremonies. It was further contended that as long as the required promises under the **Marriage Act** are contained therein any written ceremony provided by the parties to be married should be allowed in substitution of the one presently in use. Also, that respective couples should be allowed to read the usual ceremony before agreeing to using it.
Most pointedly, it was submitted that the present practice of soliciting gratuities by

Commissioners at the Marriage Branch should be terminated. It was submitted that an investigation into the entire operation of the Marriage Branch may well be necessary at this time.

(o) **Sterilization** —
It was submitted that changes in the Alberta Hospital regulations should be made so that medical practitioners are permitted to perform non-therapeutic sterilization at the request of a patient without further consultation of another physician.

(p) **Adoption** —
It was submitted that changes in the priority system of the Department of Health and Social Development should be effected so that single working men or women are not discriminated against when applying for the adoption of children.

(q) **Foster Parents** —
It was submitted that a change should be effected on the foster parent application form presently in use so that any question seeking information as to whether or not a person is of native ancestry is deleted.

(r) **Domicile** —
It was suggested that changes should be made so that any woman may, for all purposes, on marriage or at any time retain her existing domicile or subsequently acquire a new domicile completely independent of that of her husband.

(s) **Domestic Relations, Divorce, Maintenance, Etc.** —
It was urged that the recommendations contained in the Alberta Institute of Law Research and Reform Report on this subject be implemented.

(t) **Day Care and Young Children** —
Support was voiced for proposals made by other organizations on the need for better and more adequately supervised and constructed Day Care facilities throughout the province.

(u) **Availability of Regulations** —
It was submitted that all Government of Alberta employees, especially those in constant contact with the public should be made fully aware of all legislation and regulations pertinent to the operations of their department, and that these employees should have access to such regulations and legislation. It is further suggested that information on all regulations and legislation be available to the public upon request.

Committee's Comments:

(a) **Alberta Worker's Compensation** —
Since the submission, a new **Worker's Compensation Act** has come into force and the new Act has made changes affecting common-law spouses.

(b) **Protective Labour Legislation and Regulations** —
The Committee is in agreement with the suggestions made here and assumes that the new **Labour Act** and recent amendments to regulations thereunder have resolved many of these problems. The Committee refers the suggestions to the Minister of Manpower and Labour on this topic for further consideration.

(c) **Part-time workers and Household workers** —
On the subject of household workers the Committee has no specific recommendation to make other than to suggest that the implementation of this proposal would appear most difficult; however, it is recommended that this issue be referred to the Minister of Manpower and Labour for review. It was noted that section 2 (c) of the **Alberta Labour Act** excludes employees employed in domestic work in a private dwelling and their employer while an employee is the occupant of the employer's private dwelling.

(d) **Maternity Leave** —
The Committee is sympathetic with the recommendation that maternity leave be recognized as a worker's right. In this regard the Committee has been informed that, at present, there exists no legislation or regulation on this problem. The new **Alberta Labour Act,** R.S.A. 1973, section 167, (1) (g) does provide generally for:

(g) "Providing for any other matter concerning the welfare of employees."

It would seem possible that this section could empower regulations governing maternity leave. However, no such regulations exist at present in this province. The Committee recommends that the Minister of Manpower and Labour review this matter.

(e) **Pension and Insurance Plans** —
It has been pointed out that this subject is now under review by the Department of Manpower and Labour.

(f) **Government of Alberta Hiring Practices** —
The Committee recommends that there be a proper assessment of volunteer experience wherever possible. The Committee has no specific comment to make on the assessment of home-maker-manager qualifications as they relate to other employment other than that such an assessment would be very difficult.

(g) **The Government of Alberta Pay Rates** —
It is recognized that pay rates for the professional and semi-professional staff listed in this recommendation are set by regulations. The Committee suggests that this submission is the proper subject of the collective bargaining process and suggests that the review of these pay rates be left to proper negotiations between the bargaining agencies and the government.

(h) **Alberta Health Care Insurance (Regulation 153/70, Sections 8, 9, and 10)**
The Committee recommends that changes should be made in the Alberta Health Care regulations and policy so that a married individual can use a different surname in the proper case. Further, the Committee recommends the review of the Alberta Health Care Plan with a view as it relates to either spouse's right to opt out of the plan while not affecting the remaining family members.

(i) **Change of Name Act (Statute Sections 4, 5, and 7)**
The Committee notes that a new **Change of Name Act** has been passed in this province and assumes that many of the former difficulties encountered under the old legislation have now been resolved.

(j) **Children's Surnames** —
On this submission, the Committee refers to the comments under (i) above.

(k) **Election Act — (Section 15 and Rule 6 in the Third Schedule)** —
This matter was dealt with in the Report of the Special Committee of the Legislature established to review The Election Act and is before the house.

(l) **Government of Alberta Forms, Applications, etc.**—
The Committee recommends that this submission be considered by the government.

(m) **Names and Titles** —
The Committee would agree with these suggestions and refers the matter to the Attorney-General.

(n) **The Marriage Act** —
(i) The Committee recommends that the present procedure of appointment of marriage commissioners should be reviewed.

(ii) The Committee notes that attention has now been accorded to the congeniality of surroundings of the Bureau of Vital Statistics, Marriage Office, and would hope that this department's re-location has resolved problems in this area.

(iii) Having regard to the present hours of operation of the Bureau of Vital Statistics and the "assembly line" methods in processing marriage certificates and ceremonies, the Committee recommends that a review be undertaken. The Committee suggests that, in conjunction with the more congenial surroundings of a new facility, the operations of the Marriage Office should be organized with the greatest possible respect for the wished of respective couples.

(iv) The test of the ceremony presently in use by the Bureau of Vital Statistics, Marriage Office, in this province seems to contain only the specifically required promises under the **Marriage Act**. However, the Committee suggests that all couples be provided with an opportunity to read the ceremony and be informed as to the required promises so that the ceremony used on the occasion of their marriage can, subject to the Statutory requirements of the **Marriage Act**, be as close as possible to their expressed desires retaining the present simplicity of the ceremony.

(v) The Committee is particularly concerned about the allegation that gratuities in addition to the usual marriage fees are often solicited by Commissioners in the Marriage Office of the Bureau of Vital Statistics. The Committee recommends an investigation into this alleged practice.

(o) **Sterilization** —
The Committee makes no specific recommendation in this area other than to note that the equality of sexes should be recognized in any legislation or regulations governing this matter. It is noted that the suggestion of the College of Physicians and Surgeons, infra, on this topic was to the effect that the practice of consultation between doctors should occur before all such operations, either male or female, and that it should be mandatory for all doctors to inform patients of the consequences of such operations.

(p) **Adoption**
The recommendation that single working men and women not be discriminated against in the adoption of children was considered by the Committee and it was noted that the existing policy of the Department of Health and Social Development is to maintain a priority list of those applying for the adoption of children. In this regard, the Committee suggests that no one criterion should be decisive and that all decisions should be made on the basis of a value judgement with the best interests of the children uppermost in mind.

(q) **Foster Parents** —
The Committee recommends that application forms for foster parents containing questions relating to native ancestry should be replaced by a more general reference to cultural and ethnic background.

(r) **Domicile** —
The Committee recommends that legislation dealing with domicile and residence within the legislative competence of the Government of Alberta be reviewed by the Attorney-General.

(s) **Domestic Relations, Divorce, Maintenance, Etc.** —
The Alberta Institute of Law Research and Reform has now released its iterim report which consists of a number of suggested alternatives for public comment.

(t) **Day Care and Young Children** —
The Committee refers to its comments on this

matter as stated under the submissions received from the Alberta Association for Young Children.

(u) **Availability of Regulations** —
The Committee has dealt with this matter in the general body of the report.

ALBERTA ASSOCIATION FOR YOUNG CHILDREN (CALGARY) — (Oral)

Nature of Submission:

This association was formed to co-ordinate the efforts of all agencies, organizations, professional groups, parents and others interested in early childhood care. This submission is in support of the establishment of a uniform or umbrella act in this area to replace the large number of provincial statutes and regulations governing the operations of existing Day Care Centers. It was the desire of this association to obtain a properly supervised system for the operation of Day Care and Child Care Centers, and for that purpose, a legislative enactment setting out complete and comprehensive standards of care and facilities was requested. The association has presented to the Committee and to the Department of Health and Social Development copies of proposed guidelines for legislation and regulations of Child Care facilities.

Committee's Comments:

In the course of its deliberations the Committee has encountered a number of submissions seeking an umbrella treatment of a particular subject. The Committee suggests that an umbrella act covering all matters relating to Child Care and Day Care facilities would appear impractical at this stage. The Committee recommends that a proper initial approach to this problem may be the preparation of a syllabus of all pertinent legislation and regulations. The second step in this course of action would be the collection of all materials listed on that syllabus and thereafter the consolidation and revision of those materials. Once these materials have been consolidated and revised they could be published in an abridged form for the purposed of Day Care and Child Care facility operators. Further, with this publication a pamphlet explaining the effect of all legislation and regulations relating to early Child Care facilities should be provided.

One benefit in following this course of action would be the elimination of duplication, over-lapping and conflict. It should lead to the revision of all necessary legislative enactments, ensure uniformity and thereafter, hopefully, additional provisions to ensure a proper quality of teaching and facility in this area.

The Committee recommends consideration of the standards and suggested guidelines as set out in the brief by the Alberta Association for Young Children and encourages the Department of Health and Social Development and the Department of Education to co-operate in achieving the projected programme.

ALBERTA ASSOCIATION FOR YOUNG CHILDREN (EDMONTON) — (Oral)

Nature of Submission:

The nature of this submission is basically the same as that of the Calgary branch of this Association and, in essence, covers the same points brought up in the following submission by the Edmonton Day Care Council.

In general, this submission suggests that present licensing standards and regulations governing facilities over-lap and are often in conflict with each other. For purposes of correcting these problems it was suggested that an immediate consolidation of all legislation and regulations and all efforts in this area is necessary.

Committee's Comments:

The Committee reiterates its comments and recommendations under the Alberta Association for Young Children (Calgary) submission.

EDMONTON DAY CARE COUNCIL — (Oral)

Nature of Submission:

The Edmonton Day Care Council presented a submission to the Committee on the need for a uniform policy regarding Day Care Centers in the province. This Council was seeking a consolidation of all legislation and regulations applying to Day Care Centers. It was suggested that such a consolidation would aid in the organizing of a comprehensive Day Care program in this province and would assist in the up-grading of the quantity and quality of such facilities.

Committee's Comments:

The Committee reiterates its comments and recommendations under the Alberta Association for Young Children (Calgary) submission.

JEWISH FAMILY SERVICE (CALGARY) — (Oral)

Nature of Submission:

This organization takes exception with the **Preventive Social Services Act Regulations** where in a general policy statement appears to exclude ethnic and sectarian groups from recognition as benefiting agencies under the Act.

The major area of concern to this organization is the Department of Health and Social Development policy relating to the administration of the Child Welfare Act. In particular, this association disputes the practice of the Department of Health and Social Development in quoting a purported "regulation" and then failing to provide a copy of such. It was submitted that many such "regulations" are very difficult to find.

The Jewish Family Service expressed concern about maintaining the religious and cultural background of Jewish children in foster homes.

Committee's Comments:

The Committee determined that the policy statement contained in the regulations under the **Preventive Social Services Act** is a definition or

policy statement. It is the Committee's recommendation that such a statement should not be contained in regulations but rather embodied in the legislation itself.

In this area, the Committee recommends that the examination of each application for assistance be dealt with on its individual merits rather than by the adoption of a blanket policy.

In the area of adoption and the administration of the **Child Welfare Act,** the Committee finds the practice of terming government policy as regulations disdainful. Further, it is this Committee's belief that all government policy and regulations should be available for scrutiny on demand.

With regard to the maintaining of a child's religious and cultural status prior to placement for adoption with foster parents, the Committee does not recommend the usual adoption practice of cutting off ties with the past world in the instance of foster homes. It is suggested that this service organization at least be consulted in the placement of a foster child of Jewish background.

Further comments appear in the Edmonton Jewish Family Service submission.

JEWISH FAMILY SERVICE (EDMONTON) — (Oral)

Nature of Submission:

The Edmonton Branch of the Jewish Family Service reiterated the suggestions made by the Calgary Branch relating to the **Preventive Social Services Act** regulations and practices under the **Child Welfare Act** dealing with foster homes and adoption. In addition, the Jewish Family Service (Edmonton) requested some type of formal legislative recognition to the relationship presently existing between the Department of Health and Social Development and the Jewish Family Service on the matter of obtaining suitable foster homes for Jewish children.

One particular complaint in this submission dealt with section 34 of the **Child Welfare Act** subsection 1 wherein "Protestant" and "Roman Catholic" are specifically defined, and then in section 34 (3) (a) it is stated:

> "At the time of surrendering a child by instrument as mentioned in section 30 of this Act, a parent may state . . . that he would prefer the child to be brought up in a Protestant faith or a Roman Catholic faith or in a religious faith other than the Protestant or the Roman Catholic faith".

The Jewish Family Service (Edmonton) stated that Jewish children on adoption and foster home placement are designated as Protestant and that the attitude or treatment of the Department of Health and Social Development appears to be that there are, in fact, no other religions than Protestant or Roman Catholic.

The Jewish Family Service also inquired into the possibility of being given notice when a Jewish child is placed for adoption so that they might assist in finding an adoptive home.

Committee's Comments:

The Committee reiterates its comments and recommendations under the Jewish Family Service (Calgary) brief wherein it is suggested that every applicant agency under the **Preventive Social Services Act,** whether sectarian or not, be treated on an individual basis.

On the suggestion that there be specific recognition for the present working arrangement between the Department of Health and Social Development and the Jewish Family Service (Edmonton) and other agencies, the Committee recommends a review of that working relationship with a view towards legislative recognition by the Minister of Health and Social Development and improvement of the use of such agency services.

On the subject of section 34 of the **Child Welfare Act,** although this matter is dealing with primary legislation, it would appear that such is also a matter of government policy or practice. The Committee recommends that this practice be reviewed and that proper recognition and consideration be given to the Jewish faith and other faiths.

MR. DONALD COOPER — (Written)

Nature of Submission:

This submission contended that the residence and domicile requirements of the Divorce Act severely restrict the human rights of a Canadian citizen. Further, it suggests that the Legal Aid requirements in various provinces leave a gap in that they fail to provide for a situation where a person seeking a divorce in one jurisdiction moves to another jurisdiction.

Committee's Comments:

The Committee considered the domicile and residence requirements under the **Divorce Act** of Canada and makes no specific suggestion relating to them as they are a matter of federal jurisdiction.

MR. J. O. HODGES, CANADA PENSION — (Written)

Nature of Submission:

This submission brought to the Committee's attention the **Local Authorities Pension Act Regulations,** which, it was contended, are arbitrary and misleading as well as being restrictive with respect to the voice and wishes of participating employees on the interpretation of the regulations. The Committee's attention was focussed on Alberta Regulation 561/62 as specifically amended by Alberta Regulation 336/65 and 104/71, Part I, Section 2, Sub-section 4 wherein it is stated:

> "Any local authority whose employees have been brought under the Pension Plan may request, and upon such terms and conditions as the Board directs, withdraw every employee from a class from participation in the plan".

It was suggested that the Local Authorities Plan has been promoted in many areas of the Alberta Civil Service as the pension plan offering the greatest opportunity in terms of benefits at a minimal cost to both employers and employees. It was suggested that this plan is restrictive and that it often placed local authority employees in a dilemma on the choice of pension plan. It was suggested that the above quoted section circumvents the intention of the **Local Authority Pension Act** and is confusing.

Committee's Comments:

The Committee considered this submission and suggests that there appears to be some urgency in the Minister of Manpower and Labour dealing with this problem. The Committee recommends the consideration of this problem by the Minister of Manpower and Labour.

MRS. ROSE McLEOD — (Oral)

This submission was made in an attempt to point out certain suggested deficiencies and ommissions by the Department of Health and Social Development in granting social allowances.

This submission related to the recent increases in the cost of living and points out that social allowances have not risen correspondingly.

As Mrs. McLeod owns her own home and is a recipient of assistance, she finds she has to allocate a certain amount of money from the assistance towards repair and maintenance of that home. There is, however, no provision by the Department of Health and Social Development in social allowances for repairs and maintenance of homes or residential structures so that she has had no financial resources for this purpose.

Finally, this submission points out an inequity in one of the present policies of the Department of Health and Social Development. It would appear that the Department of Health and Social Development Social Allowance Program allows only a certain amount of income before social allowances are correspondingly reduced. In many cases, a recipient of social allowance will not disclose an income since he is not aware of the limitations on his income earning or so that he can avoid being subjected to a reduction. As a result there often occurs an "overpayment" of social allowance. It would appear that once an over-payment has been received by the recipient of social allowance that recipient is subject to the provisions of the **Alberta Maintenance and Recovery Act,** (R.S.A. 1970, c. 223) whereby the Department of Health and Social Development can commence proceedings to recover over-payments, however, in most cases the department will be unable to collect these sums as the persons affected do not command financial resources in an amount adequate for repayment. As a result of this situation it is suggested that it has become the practice of the Department of Health and Social Development to threaten a person previously on social allowance who finds it necessary to re-apply for social allowance, with the hope of discouraging the re-application.

Further, if this practice does not prove successful, then such a person will be required to sign a re-payment form and thereafter a specified amount is deducted each month from the social allowance deemed necessary for subsistence living.

Committee's Comments:

The Committee recommends that the Department of Health and Social Development be continually aware of the rising cost of living and adjust its social allowance rates accordingly.

The submission by Mrs. Rose McLeod made the Committee aware of a need to review regulations with regard to home maintenance costs. In practice a family on welfare may expect to have regular rents paid or included in welfare allowances. Such rents are presumed to cover costs of maintenance and repairs to the property occupied. However, where the recipient is the owner of a home, the Committee was unable to obtain from the department the policy regarding maintenance repairs or worthwhile modifications.

The Committee believes that repairs, maintenance and renovations might be provided for in social allowances and that such could be recovered from the proceeds of an ultimate sale or the rental of the property in question. The filing of a caveat for protection of this recovery may be in order.

The Committee recommends a review by the Minister of Health and Social Development of the department's over-payment collection policy.

EDMONTON SOCIAL PLANNING COUNCIL — (Oral)

Nature of Submission:

The Edmonton Social Planning Council submitted a brief to the Committee stating that it is necessary to review regulations governing Social Allowances on a more frequent and periodic basis in order that they may be increased to coincide with the rising cost of living. In support of this submission, the Edmonton Social Planning Council noted increases in the cost of living of some 9% between 1972 and 1973.

Specifically, the Edmonton Social Planning Council suggested that continuing research on the amounts budgeted for food in provincial assistance plans should be financed by the Department of Health and Social Development. It suggested that these amounts and a proposed budget together with recommended diets should be made available to the public. It further recommended that this information could be disseminated by the provision of a Family Service Association Cook Book provided free of charge.

It suggested that adequate provision should be made for the special dietary requirements of pregnant mothers. Also it stated that sufficient allowance should be made for emergency situations or necessities such as Christmas, school field trips, warm clothing needs, etc.

In the long run, it was recommended that the guaranteed annual income scheme as proposed by the Edmonton Social Planning Council and by the Canadian Social Planning Council be adopted as the only practical method of dealing with the welfare problems in this country.

Committee's Comments:

The Committee is in agreement with some of the specific suggestions of the Edmonton Social Planning Council and recommends that the Minister of Health and Social Development study those suggested changes. It was noted that most of these matters were dealt with by policy rather than regulation and the Committee expressed a concern that this policy was not available to the general public. The Committee recommends that such policies should be contained in legislation and regulations.

The Committee expressed concern with one particular area raised during the presentation — the contention that a significant number of high school age students leaving home and subsisting on provincial welfare programs. The Committee felt that this development should be the subject of continuing review by the Minister of Health and Social Development. The Committee is aware of the fact that a review of the Guaranteed Annual Income Scheme and its counterparts is presently underway by all federal and provincial departments of welfare.

PROPERTY OWNERS ASSOCIATION — (Oral)

Nature of Submission:

This submission recommended the retention of the present **Landlord and Tenant Act.**

The one recommended change in the existing Act suggested by this association was the elimination of the provision for verbal notice to quit on behalf of a tenant.

The suggestion of a Provincial Trust Fund for damage deposits was repudiated as government meddling.

Committee's Comments:

The Committee felt that this submission was specifically related to legislation and the amendment thereof.

MISERICORDIA HOSPITAL — (Written and Oral)

Nature of Submission:

This brief was by far the most extensive received by the Committee. It contained several hundreds of pages noting areas of conflict and discord in all Alberta Health Services legislation and regulations. The general intention of the brief was directed towards the proposition of a uniform Health Care statute.

The brief covered such matters as conflicts in the **Alberta Insurance Premium Act,** the **Alberta Health Care Insurance Act,** and the **Alberta Hospitals Act** and all the regulations thereunder covering registration with the Alberta Health Insurance Plan. The designation of facilities under the **Mental Health Act** and the **Alberta Hospitals Act** was discussed and a number of conflicts and overlaps were noted, in particular, the power under the **Mental Health Act** to infringe upon a hospital's authority to designate a facility for mental health and treatment. The brief pointed out that there are no regulations under the **Mental Health Act,** the **Alberta Hospitals Act,** the **Alcohol and Drug Abuse Act** or the **Child Welfare Act** permitting the designation of a hospital as a detention center, however, it is a fact that hospitals are used for such and it was suggested that in the absence of any legislative guidance the practice is most dubious.

In addition, the brief pointed out the conflict in several Alberta statutes governing health care which limit the release of information such as the hospital's patient record and physician's reports. The brief then went on to point out that many of these restricting statutes contain subsequent provisions setting out a duty to report and, as such, create an impossible situation.

Another of the general topics touched on in this brief related to voting in hospitals and the administrative problems with same.

In support of a proposal for a uniform and consolidated Health Care statute, the brief listed an almost overwhelming number of statutes and regulations governing the operations of Health Care facilities and went on to show how a knowledge of all these statutes and regulations is a practical impossibility even with permanent staff assigned to this task.

This brief also contained an Appendix listing of comments on the **Alberta Labour Act** as it relates to Health Care facilities and the **Worker's Compensation Act,** (S. of A. 1973, c. 87) as it fits into the Health Care field.

Committee's Comments:

The Committee met with representatives of the Misericordia Hospital at some length to discuss the contents of this brief. The Committee is of the opinion that the contents of this brief represent a very comprehensive starting point for a review of all Health Care legislation.

The Committee recommends that the Department of Health and Social Development and other government departments concerned with the Health Care field co-operate in preparing a complete syllabus of legislation and regulations relating to the area of Health Services. It is suggested that once this syllabus has been prepared, the material listed therein should be gathered, reviewed and consolidated. Once consolidated, this material could be distributed to all Health Care personnel and facilities together with proper explanatory manuals.

It is hoped that a review of the comments contained in the Misericordia Hospital brief and an undertaking of the recommendation of this Committee relating to preparation of a syllabus, leading to a consolidation of all legislation in the

Health Care field, should improve the administration of our hospitals.

MS. TERRI JACKSON — (Oral)

Nature of Submission:

Ms. Jackson asked the Committee to look at regulations under Part II of the **Alberta Hospitals Act,** 20, Section (e) with a view towards elimination of that section. The section states:

> "That consultation with a second physician is required for operations of sterilization for both male and female patients."

It was submitted that this requirement is discrimantory due to the fact that male sterilization operations can be and most often are, performed outside a hospital where the regulation is inoperative whereas the female sterilization operation must be done in a hospital setting.

Committee's Comments:

The Committee recognizes that although the above regulation is non-discriminatory in form in that it applies equally to persons of both sexes, an unequal situation may have arisen in practice. This situation may be alleviated, however, if the suggestion of the College of Physicians and Surgeons is accepted, i.e. — passage of a similar regulation requiring the consultation of a second physician for all sterilization operations performed outside the hospital setting.

COLLEGE OF PHYSICIANS AND SURGEONS AND ALBERTA MEDICAL ASSOCIATION — (Oral)

Nature of Submission:

The Alberta Medical Association voiced approval for the idea of a continuing review of regulations by a Committee of the Legislature. The Association was also in agreement with the suggestion that regulations be the subject of advance consultation with the various agencies in the private sector having practical experience.

The Association expressed the view that the subject of sterilization and abortion should really be a matter for general legislative debate and reiterated their belief that consultation on all sterilization operations amongst physicians and surgeons should be undertaken whether required or not by regulation.

The Alberta Medical Association and the College of Physicians and Surgeons expressed a willingness to provide, on an on-going basis, opinions and viewpoints on all proposed regulations relating to Health Care Services.

The Association supported a uniform act governing all Health Care Services and suggested that existing Health Care legislation creates nothing but duplication and irreconcilable conflicts.

On the issue of preparing a syllabus and then consolidating statutes and regulations, it was suggested by both organizations that such would be a very worthwhile task although it would require a very large research staff and take a considerable amount of time. It was noted that a topical or subject matter index of the regulations and acts would greatly aid all Health Care personnel in dealing with legislation.

Committee's Comments:

As this submission was really more in the form of a discussion rather than a formal specific submission the Committee makes no comment on it. The Committee notes that some of the comments of these two organizations have already been dealt with in the general body of the report.

RE: MEDICAL QUALIFICATIONS — (Written) — (Name Withheld by Request)

Nature of Submission:

This submission was received from a person who stated that he had practised medicine for several years in a former Commonwealth country. It was stated that the College of Physicians and Surgeons in Alberta does not allow such medical doctors to practice in Alberta until they have passed an American screening examination, have successfully completed a two year intern program, and then passed another examination conducted by the Medical Council of Canada. This person stated that he was in sympathy with the caution evidenced by the College of Physicians and Surgeons with regard to the registration of doctors from outside the jurisdiction; however, he suggests that there should be some provision for an Alberta screening examination and some sort of further training for persons in his situation.

Committee's Comments:

In view of the confidential nature of the submission the Committee hopes the above statements adequately raise the issue which should be considered by those responsible.

SOCIAL SERVICES FOR THE DISABLED — (Oral)

Nature of Submission:

This submission was presented to inform the Committee of a discrepancy between a statute and a regulation purported to be made thereunder. It was also presented towards the amendment of the existing regulations so that proper recognition will be given to the financial needs of the physically handicapped in this province who have expenses arising from their physical disabilities which pose an undue burden on their financial resources.

Section 46 of the **Alberta Health Care Insurance Act** provides:

> "(1) The Lieutenant Governor-in-Council may establish a program to provide financial assistance in cases where because of sickness or disability a resident is faced with expenses that could not be reasonably foreseen and guarded against and that place an undue burden on the financial resources of the resident.

(2) The programme may specify the types of expenses in respect of which assistance may be given and the portion of the expense that is to be borne by the resident."

Accordingly, Alberta Regulation #209/71 was passed stating:

"s. 3

(1) A person entitled to the payment of benefits in respect of insured health services or insured hospital services may make application to the Alberta Health Care Insurance Commission for the payment of expenses to be incurred or incurred for necessary health or hospital services rendered **outside** of Alberta, where —

(a) The applicant has endeavoured to receive the services in Alberta and they are not available in Alberta, or

(b) The person, while temporarily absent from Alberta (within the meaning of the Alberta Health Care Insurance Regulations) requires the services of an emergency treatment, and

(c) The health or hospital expenses —

(i) are in excess of payments prescribed by, or are payments not provided for in the regulations under the Alberta Health Care Insurance Act and the Alberta Hospitals Act, or either of them,

(ii) could not be reasonably foreseen and guarded against, and

(iii) would place an undue burden on the financial resources of the person."

As such, this regulation, in dealing only with health care expenses incurred outside of the province, covers only one small area contemplated by s. 46 of the Act.

This organization provided the Committee with materials on the cost of drugs and equipment necessary in many disability cases. It was stated that for families of marginal incomes it is very often an onerous burden to have to pay for these services, equipment and drugs. It was noted that those on public assistance are either reimbursed or given an adequate allowance to purchase necessary equipment and drugs up to a certain limit. It was submitted that in order to avoid the forcing of more people on to social assistance on a permanent basis there should be some sort of financial provision to help the disabled who are unable to pay for all their requirements by themselves and yet do not require social assistance.

Committee's Comments:

The Committee considered Section 46 of the **Alberta Health Care Insurance Act** and Alberta Regulation #209/71 purported to be passed thereunder. The Committee notes that this regulation is inconsistent with the intent and policy set out in Section 46 of the Act. It is suggested that even if the obtaining of services outside the province of Alberta is deemed to be within the meaning of Section 46 the fact that this is the only matter dealt with under Section 46 makes Alberta Regulation 209/71 an excellent example of lack of compatibility between legislative intent and regulations.

The Committee recommends that the Minister of Health and Social Development consider Section 46 of the Alberta Health Care Insurance Act and the regulations purported to be made thereunder with a view towards revision in accordance with the legislative intent.

On the specific submission of the Social Services for the Disabled the Committee recommends a review of these proposals by the Minister of Health and Social Development.

SOCIETY FOR THE HEARING HANDICAPPED

Nature of Submission:

This Society stated a concern about regulations covering apprenticeship standards and their relation to the Hearing Handicapped. It was suggested that regulations be enacted covering the Hearing Handicapped and providing that such people could attain a technical certificate proving proficiency in certain skills.

The Society for the Hearing Handicapped stated that many of the safety regulations under the **Worker's Compensation Act, (S. of A., 1973, c. 87)** create the situation where a deaf person is not eligible for a position. The Society stated that on many occasions an employer will use these regulations as an excuse not to employ handicapped persons. This, it was submitted, is a violation of the **Alberta Bill of Rights. (S. of A., c.1).**

The Society stated that they have been working for many years to set up a suitable program with the various vocational and technical institutes in this province and have asked that the various government departments and agencies consider legislation and regulations to assist in this endeavour.

Committee's Comments:

The Committee was not supplied with the specific references to regulations in the apprenticeship area or in the area of safety regulations under the Worker's Compensation Act. Therefore, the Committee suggests that the Minister of Manpower and Labour review these proposals.

MEMORIAL SOCIETY ASSOCIATION — (Oral)

Nature of Submission:

The main purpose of this submission was to gain legislative recognition for the Memorial Society scheme. In general, it was suggested that provincial legislation recognizing and governing the operations of Memorial Societies should be passed along the lines of the example act submitted by the Memorial Society Association of Alberta. It was further suggested that the various government regulations controlling the undertaking industry should be amended to recognize a Memorial Association.

It was submitted that Alberta Regulation #28-4-1

(1) under Section 7, (1) of the **Public Health Act, (R.S.A. 1970, c. 294)** be amended so that a majority of the Undertaker's Licensing Board are industry members.

It was suggested that Regulation #26 - 5 - 6 (supra) which requires heavy and expensive metal containers for the transportation of bodies be amended to allow for the substitution of more suitable, lighter and less expensive containers.

Committee's Comments:

The recommendation that a majority of industry members govern the Licensing Board for undertakers was considered and the Committee suggests that industry members including representatives of the Memorial Society be on the Board but the Committee had reservations regarding the suggestion that a majority of industry members constitute this Board.

The Committee recommends that the Minister of Health and Social Development consider the suggestion regarding containers for transportation of bodies and possible amendment of the regulations.

MRS. FRED POINTKOSKI — (Oral)

Nature of Submission:

Mrs. Pointkoski appeared before the Committee on the practice of committing persons to Mental Institutions in this province. She suggested that she had been wrongfully committed to a Mental Institution in this province on two separate occasions. A matter of particular concern to Mrs. Pointkoski is the presently existing purported safe-guards to prevent wrongful committal.

Committee's Comments:

The Committee recognizes that existing Mental Health legislation in this province is relatively new. The committal of an individual to a Mental Institution is one of particular concern to society.

The Committee recommends that the Minister of the Department of Health and Social Development and his department continue their on-going review of this matter and would ask that Mrs. Pointkoski's case receive special consideration. This matter has been brought to the Minister's attention and action has been commenced.

MRS. K. TIMLECK — (Written)

Nature of Submission:

Mrs. Timleck has suggested a review of our present liquor laws. She stated that, at the present time, existing legislative attitudes towards "drinking" create an unfriendly and unhealthy atmosphere. In particular, it was suggested that the provincial government enact legislation providing for the licensing of small neighborhood "pubs" as an alternative to the large drinking halls and beer parlours. It was suggested that these neighborhood pubs would not only create a necessary friendly and relaxed atmosphere but would considerably reduce the number of drunken drivers on the highways of our province. Mrs. Timleck suggested that the instituting of such small neighborhood pubs would provide a great deal of employment and business opportunity as well as promoting a much happier and healthier attitude towards drinking. It was suggested that this solution has become a matter of some urgency as the problems on our highways and the unhealthy atmosphere in presently existing drinking establishments continue to contribute toward a very serious situation in this province with regard to alcohol.

Committee's Comments:

The Committee suggests that most of Mrs. Timleck's concerns have been dealt with by the government Task Force on Beverage Alcohol Legislation. That report is now under consideration by the Solicitor-General of Alberta.

MRS. A. H. SHORE — (Oral)

Nature of Submission:

(i) Mrs. Shore urged the abolition of the Assurance Fund levy as prescribed under **The Land Titles Act.**

(ii) Mrs. Shore suggested that victims of crimes should be compensated not only for personal injuries such as in the **Criminal Injuries Compensation Act** (R.S.A. 1970, c. 75) but for property damage where vandalism is involved.

(iii) It was suggested that the public should decide the salaries of public servants and that there should be a plebiscite every three years to review that question. It was further suggested that the terms of public office should be limited and that a proper limit for such would be two three year terms with a mandatory interval of at least three years before seeking public office again.

(iv) It was suggested that the federal, provincial and municipal government should institute a strict program of controlling noise pollution and that many excessive noise levels should be prohibited by law.

(v) Finally, it was proposed that a $5.00 fee be added to all motor vehicle licenses and that that sum be applied to the removing of abandoned and junk cars from the highways of this province.

Committee's Comments:

The Committee considered each point brought out by Mrs. Shore in turn:

(i) The Assurance Fund levy under the Land Titles system is prescribed by Alberta regulations to the **Land Titles Act.** The Committee recommends the retention of the Assurance Fund levy in recognition of its integral role in the province's Land Titles System; consideration of the rates of this levy and whether or not they should be reduced as the Fund grows is referred to the Attorney-General.

(ii) The issue of vandalism and compensation for property damage was discussed and it is noted

that such is the proper subject of new legislative enactment, perhaps a proper amendment to the **Criminal Injuries Compensation Act** (R.S.A. 1970, c. 75). The Committee refers this matter to the Attorney-General for further consideration.

(iii) In the area of setting the salaries for provincial public servants the Committee does not agree and finds for those of public office that the subject is either one of Legislative enactment (M.L.A.'s) or of concern to different levels of government.

(iv) The Committee notes that the Minister of the Environment is researching the area of noise pollution and expresses general approval with the suggestion that all three levels of government co-operate in the regulating and control of this matter.

(v) The Committee tends to agree with the suggestion that an additional charge be added on to drivers' licenses to be applied for the collecting of abandoned and junk cars providing that all attempts are first made to insure that the actual owner pay for such removal. This matter is referred to the Minister of Highways and Transport.

MR. AND MRS. VERN SPARKS

Nature of Submission:

Mr. and Mrs. Sparks are the parents of a child who has suffered brain damage but is represented to have an above average I. Q. and a normal phsychological make-up. As a result of the obvious problems in this case, it was recommended by several officials of the Department of Education that the Sparks' child be enrolled in a special institution having the necessary facilities to educate and train such children.

Mr. and Mrs. Sparks were unable to find such an institution in Alberta and, upon obtaining information that a suitable institution existed in British Columbia, they inquired about provincial subsidies for tuition, room and board. The Sparks were informed by a County Councillor that they would receive the necessary financial assistance from the Department of Education. After the child had been enrolled for a year, the Sparks submitted receipts to the school authorities and were informed that, because the institution was outside the province, financial assistance was not available.

Committee's Comments:

The Committee notes this problem but is unsure whether it results from a problem with the interpretation of the regulations or an administrative error. The Committee has been unable to find the regulations relating to this matter and would suspect that it is dealt with by departmental policy. The Committee has, in any case, referred the problem to the Department of Education on more than one occasion and no response has yet been received. The Committee recommends that the Minister of Education look into this matter and respond to Mr. and Mrs. Sparks.

MR. J. D. IMESON — (Oral)

Nature of Submission:

Mr. Imeson is concerned with Section 28 subsection 2 and 4 of the **ALBERTA SCHOOL ACT.** (R.S.A. 1970 c. 329). Mr. Imeson has suggested that under the present School Act, it is possible to elect a local Advisory Board partial to one or more minority groups to the detriment of the majority of a community.

Committee's Comments:

As this matter specifically deals with legislation the Committee refers the problem to the Minister of Education and recommends proper scrutiny by the Department of Education so that the suggested problem does not arise.

MR. DAVID HARDMAN — (Oral)

Nature of Submission:

The main purpose of this submission was to draw attention to the apparent conflict between local municipal by-laws regarding parking and the rights of a citizen to enjoy recreational, hunting and fishing interests in the wilds.

It was suggested that the municipal by-laws in various areas of this province restrict car parking to such a degree as to severely limit recreational, hunting and fishing, and general access to the wilds.

Committee's Comments:

The Committee noted that the **Municipal Government Act** empowers municipalities to pass by-laws governing the use and occupation of public roadways and thereby putting the matter beyond the Committee's scope of review. The Committee refers this matter to the Minister of Municipal Affairs.

MR. ADAMS — (Oral)

Nature of Submission:

Mr. Adams appeared before the Committee with a complaint relating to the registration of liens and encumbrances on motor vehicles.

Mr. Adams was a victim of the legislative fact that any one buying a used car in this country is subject to the rights and encumbrances of a prior title holder.

Committee's Comments:

After suggesting to Mr. Adams that the only method of ensuring a clear and unencumbered title was to purchase a used car from a reputable car dealer, the Committee recommends an investigation of this problem by the Minister of Consumer Affairs with consideration being given to the following:

(a) That negotiations should be attempted between all provinces of this country towards a view of providing a uniform exchange for central registry information across Canada.

(b) That a mandatory statutory requirement should be put on all parties claiming a legal interest in a motor vehicle and that they send

notice of their rights to all provinces in Canada where they expect to claim those rights.

(c) That there should be a prevention of the sale of any car in this province without Alberta registration plates. A further requirement could be that a complete search and required production of last registration would be demanded before Alberta registration would be granted. Then, the Alberta government could issue a certificate of liens and encumbrances.

The Committee suggests that the guaranteed title system presently in operation in some of the United States (notably Montana) should be investigated with a view towards incorporating such a system in this province. The workings of this system would appear to be in the nature of a bonding of title wherein the province would become a surety for title.

All of these suggestions are made with a view of bringing this matter to the attention of the various departments of Consumer Affairs, Highways and Transport and the Attorney-General. A referral of these suggestions and of materials obtained from the State of Montana on title bonding is made to the departments involved.

MR. JOHN KEMPO, BARRISTER & SOLICITOR — (Written)

Nature of Submission:

Mr. Kempo had a number of comments to make on existing Alberta legislation. He expressed some concern over the existing **Change of Name Act,** (R. S. A. 1970, c. 41) and provided the Committee with material documenting difficulties in obtaining Change of Name for the son of a divorced woman. Mr. Kempo also made reference to the **Bulk Sales Act** (R. S. A. 1970, c. 37) of this province. However, his comments on that matter were simply by way of recommending complete revision.

Sections 14 and 15 of the **Public Works Act** (R. S. A. 1970, c. 298) were referred to and it was suggested that any claimant under those sections be required to commence legal proceedings and pursue his claim in the Courts expeditiously.

The problems created by Homeowners Grants with regard to the purchase and sale of primary residences was mentioned and it was suggested that there be some legislative provision guiding the legal profession on the proper method of adjusting these monies during the course of a land transaction.

Finally, comment was made on the existence of a Standing Committee on Law, Law Amendments and a Legislative Committee on Regulations. It was suggested that these Committees will not properly perform their functions unless members from the general public at large are allowed to participate both as members and witnesses. By the same token, it was submitted that civil servants should be given the proper opportunity to make representations and sit as members so that they can add administrative and practical guidance.

Committee's Comments:

The Committee notes that Alberta now has a new **Change of Name Act,** (Chapter 63, S. of A. 1973) and anticipates that the changes affected by this new legislation would assist in the concerns expressed in Mr. Kempo's submission.

The Committee recommends that the general suggestions about the **Bulk Sales Act** be forwarded by Mr. Kempo to the Attorney-General's department for further consideration. It is the Committee's understanding that Mr. Kempo has already contacted the Alberta Law Society in this regard.

With regard to the suggestions under the **Public Works Act,** the Committee notes that this matter deals with primary legislation and therefore refers it to the Minister of Public Works.

On the matter of Homeowner's Grants, the Committee hopes that the legal profession could resolve this matter without specific legislative guidance. It is suggested that there has been a considerable change of circumstances since this submission was received.

With reference to membership of a Committee on Law, and Law Amendments and a Committee on Regulations, it is recognized that the public and government civil service are necessary sources of input. However, it is suggested that, for reasons discussed in the main body of this report, the composition of these committees should be solely Members of the Legislative Assembly.

WESTERN FLORAL GROWERS CO-OP LTD. — (Oral)

Nature of Submission:

It was submitted that amendments to existing legislation should be considered in order to give adequate protection to registered trade names. This speaker sought to obtain legislative recognition of what he saw to be an apparent need for cross-checking between the registration of trade names and proprietorships and the registration of company names.

A subsidiary point that was brought out during the presentation of this submission was the problem created by the ever decreasing number of names available for business organizations.

Committee's Comments:

The Committee recognizes that the primary purpose of legislation requiring the registration of any trade name or proprietorship is to protect the public and to provide a record for determingin who is operating a business under a particular name. The subsidiary purpose of this registration is to simplify business records and avoid confusion in the business sector.

The Committee is satisfied that the Companies Branch does a very thorough check of existing business names before authorizing the use of any company or trade name. It is suggested, however, that the registration for companies names, the registration for trade names and the registration for part-

icular agricultural enterprises be combined or co-ordinated so that a complete and up-to-date list of all business names and enterprises are available from a single location. If such an amalgamation is not practical then it is suggested by this Committee that duplicate name lists be placed in all anem registration offices and that these lists be updated regularly.

With regard to the ever decreasing number of trade names available, it is suggested that any business purporting to operate under a registered name should be required to show that it is carrying on business under that name within six months of registration or some similar requirement to the Companies Branch practice of filing of annual reports. In the event that such requirement is not fulfilled that name registration should lapse.

Finally, the Committee recommends that the form for registration of a trade name include the following warning:

> "The registration of this trade name does not provide the party so registering with the exclusive right to carry on business under that name. However, it is a criminal offence to carry on business in such a manner as to fraudulently confuse the consuming public. Further, under the common law of this country, the tort of "passing off" may well provide the party initially registering a trade name with a civil claim against any subsequent users."

ALBERTA RETAIL IMPLEMENT DEALERS ASSOCIATION — (Oral)

Nature of Submission:

This association suggested that a regulation be passed under the **Licensing of Trades and Businesses Act** to exempt farm implement businesses from the license fees provided therein. This submission is made in light of the licensing requirement under the **Farm Implement Act** of 1971.

A further recommendation of this association was that the **Garagemen's Lien Act** be extended to include all farm machinery whether mobile or trail type.

Committee's Comments:

The Committee recommends that a review of the licensing under the **Farm Implement Act,** (R.S.A. 1970, c. 136) and the **Licensing of Trades and Businesses Act,** (R.S.A. 1970, c. 207) be undertaken. In particular, it feels that all licensing for retail implement dealers could be provided for under the **Licensing of Trades and Businesses Act.**

The Committee was particularly concerned with a proper bonding requirement. In this regard it is suggested that licensing and bonding requirements for retail implement dealers be provided for under the **Licensing of Trades and Businesses Act.** This would render the licensing of bonding requirements under the Farm Implement Act unnecessary.

In order to affect the changes recommended for the Garagemen's Lien Act, (R.S.A. 1970, c. 155) it would be necessary to pass an amendment to the existing statute:

(i) That an amendment to section 2 (b) "Motor vehicle" of **The Garagemen's Lien Act** be made, adding to sub-section (iv) . . . " includes any farm machine".
That an additional definition section be added to read" . . . all machinery subject to the provisions of this Act shall have a manufacturers serial number or shall have an identification number stamped on the said machinery as prescribed by the regulations to this Act".

RURAL AND EDUCATION DEVELOPMENT ASSOCIATION — (Written)

Nature of Submission:

This submission proposed that the minimum number of people necessary to form a Co-op in this province be reduced from ten (or in exceptional cases, six) to two persons. The nature of this submission requires that an amendment be considered to the **Co-operative Associations Act,** (Chapter 67, R.S.A. 1970, Section 4) wherein:

"S.4. (1) Any ten or more persons who for any object or purpose permitted by this Act who desire to associate themselves together as a co-operative association with or without share capital shall in the presence of a witness sign in duplicate a memorandum of association in the form set out in Schedule A to which shall be attached an affidavit verifying the signatures."

"S.4. (2) Notwithstanding sub-section (1), a co-operative association
(a) having as its object the purchase of farm machinery for its members, or
(b) having as its object any other purpose which has the prior approval of the Director,

May be formed by six or more persons, subject to compliance with the other requirements of this Act".

Committee's Comments:

The Committee notes that this matter refers to legislative amendment and recommends that it be referred to the Minister of Agriculture for consideration remembering the recognized objectives behind the establishment of co-operative associations.

HALFERDAHL & ASSOCIATES — (Oral)

Nature of Submission:

This is a submission that the geophysical regulations in this province as drawn up to control and regulate seismic exploration are not adequate or aookucable to mining geophysics such as diamond drilling or other high quality mineral drilling exploration. It was suggested that the requirements of those regulations, such as monthly permits,

reports and the displaying of permit numbers on vehicles, are unnecessary and cause an undue burden on small or high quality mineral drilling geophysical exploration. In this regard it was suggested that observance of the requirements of these regulations make this particular type of exploration economically impractical.

It was also suggested that the Oil Sands Regulations and the Bituminous Sands Regulations under the provincial **Mines and Minerals Act** (R.S.A. 1970, c. 238) be amended and merged so as to eliminate impractical gaps and distinctions.

Committee's Comments:

The Committee lacked technical data to determine the validity of this submission and the suggestion that certain mineral exploration undertakings should be given exemption from the general geophysical regulations; however, the Committee recommends consideration of this exemption by the Minister of Mines and Minerals.

The Committee studied the suggestion that Bituminous Sand and Oil Sand Regulations be consolidated and revised and recommend that such a review be undertaken by the Minister of Mines and Minerals. It is proposed that these regulations be consolidated to avoid the presently existing overlapping and to ensure a cohesive application of regulations in this area of Geophysics.

CONSUMER ASSOCIATION, ALBERTA BRANCH — (Oral)

Nature of Submission:

This submission dealt with the practices surrounding the sale of used cars in this province. The Consumer Association, Alberta Branch, was concerned that used car dealers and used car salesmen are not licensed for some time after they are in operation. This concern was supported by the suggestion that there are many instances of consumers being defrauded by unlicensed used car dealers.

The Association recommended that all cars offered for sale be certified as roadworthy and for that purpose they requested that the Motor Vehicle Inspection Clinics be re-opened and recognized as a necessary institution providing security for anyone buying a used car.

A further concern expressed by the Consumer Association was that the existing penalties for fraud on the part of car dealers in this province are far too small. In particular, the Consumer Association was concerned about the seemingly minor penalties, imposed under provincial legislation, on car dealers who practice the turning back of odometers.

Committee's Comments:

The Committee agrees that all used car dealers and salesmen should be licensed before they are allowed to operate and for that purpose it is suggested that the **Licensing of Trade and Businesses Act** (R. S. A. 1970, c. 207) be employed to its full extent. It is recommended that the Minister in charge of that Act and the Minister for Consumer Affairs co-operate in reviewing this matter. The Committee suggests that it is the responsibility of the dealer to ensure proper bonding for the protection of the public. All dealers should be licensed and all salemen bonded.

The Committee notes that a new "Motor Vehicle Dealer Business Licensing Order" has been passed under the **Licensing of Trades and Businesses Act.** In particular, that order sets out government concern for consumers who have suffered economic loss through a variety of unethical business practices employed by a number of businesses engaged in the sale of motor vehicles. Some of those practices include:

(a) In the case of imported vehicles the consumer would not necessarily be aware that the year of registration could be different from the year of manufacture. This has led to situations where, on resale, the consumer would be told that his car was not worth what he might have expected it to be as it may have been anywhere from one to three years older than its registration.

(b) The failure of the dealer to supply the vehicle ordered and refusing to refund the deposits made or return a trade-in and giving the consumer a credit only.

(c) Failure to give an owner monies owing on a sale by consignment.

(d) Misrepresentation by a dealer of the true particulars concerning the mileage and the use made of a used vehicle.

The particular salient points of this Order are:

(a) **Licensing of Salesmen**
This Order will require that any person selling motor vehicles on behalf of a dealer is to be licensed as a salesman of that dealer. This will readily identify persons entering into a contract on behalf of a dealer in the event of a dispute.

(b) **Records**
Every dealer will be required to keep records containing specific information on all motor vehicles acquired and sold. The type of information to be recorded covers such details as the name of the person the vehicle was acquired from, the date of acquisition, a description of the vehicle, the odometer reading and the previous use made of the vehicle. Again in the event of a dispute the information contained in the records will assist in an investigation.

(c) **Contracts**
It will be necessary for a dealer to show in every sales contract specific information respecting the vehicle sold, to show the name and licence number of the salesman and dealer, and if no warranty is provided this must also be shown. Again in the event of a dispute an examination of the sales contract in relation to the dealer's records will assist in resolving problems.

(d) **Curbers**
It is anticipated that the problems associated with people selling motor vehicles under the guise of selling their own personal vehicles, when they are in fact not doing so, will be drastically reduced through limiting such sales to 4 motor vehicles a year without requiring a licence.

(e) **Bonding**
Every motor vehicle dealer may be required to furnish a bond, the purpose being to provide consumers with protection in the event a dealer defaults in his obligations with respect to:

(i) failure to refund monies to a purchaser on cancellation of a contract;

(ii) failure to pay monies received from a sale by consignment;

(iii) failure of a dealer to convey title to a purchaser.

Bonding requirements that have been proposed are:

(1) In the Cities of Edmonton and Calgary and within a radius of 25 miles —

(a) where the applicant proposes to sell both new and used motor vehicles — $35,000.00;

(b) where the applicant proposes to sell used vehicles only or by consignment — $20,000.00.

(2) In all other areas of the Province—

(a) where the applicant proposes to sell both new and used motor vehicles — $20,000.00;

(b) where the applicant proposes to sell used motor vehicles only or by consignment — $10,000.00.

The Committee supports the terms of this Order.

On the certification of cars and opening of Motor Vehicle Inspection Clinics, the Committee has already made comments on this under the City of Calgary submission. The Committee reiterates that this appears to be a matter of government policy and is concerned about the administrative problems involved. The Committee recommends that this be reviewed by the Minister of Highways and Transport.

On the point raised as to penalties for fraud on the part of car dealers in this province the Committee is in agreement with this suggestion. This matter appears to be under federal jurisdiction. The Committee suggests that the Attorney-General of Alberta review this situation carefully and consider making representations to the Federal government where necessary.

AUTOMOTIVE RETAIL ASSOCIATION — (Written)

Nature of Submission:

This Association stated that it was impossible for them to attempt a serious and responsible review of all regulations within the time provided. There was specific reference made to Fuel Oil Licensing Regulations, Alberta Regulation 380/68, Section 16 which stated:

"Every licensee shall furnish adequate automotive service and facilities."

It was noted that new Alberta Regulation 259/71 revised the Fuel Oil Licensing Regulations and left out Section 16.

The Automotive Retailers' Association advised that the deletion of Section 16 was done despite strong representations on the part of Association members. It was submitted that all retail licensees in the Fuel Oil industry should be required to provide adequate automotive service and facilities.

The Automotive Retailers' Association (Alberta) informed the Committee that it has taken this matter up with the Attorney-General and the Minister of Industry and Commerce.

Committee's Comments:

The Committee suggests that the provincial government leave this specific matter for the control of local authorities by means of local business licensing. The Committee notes that this matter is only one part in the larger concern of the Automotive Retail Association - that large oil corporations are able to exercise an undue influence on gas retailing and it is recommended that the whole area be reviewed by the Minister of Industry and Commerce.

CANADIAN MANUFACTURER'S ASSOCIATION — (Written)

Nature of Submission:

The Association had no direct comments to make on the content or publication of regulations as such and stated that they were advised regularly by government departments of new regulations and were often invited to make submissions. The concern of the Association lay in the power accorded Ministers to write regulations having a more direct authority than the statutes which father them. It was stated that, while statutes may well appear innocuous, the regulations, which are seldom subject to review, may have a drastic effect on manufacturers. A particular concern was expressed over the regulations under the new **Clean Air Act** and the **Beverage Container Act.**

It was suggested that there is a greater need for consultation prior to the final drafting of regulations. It was pointed out that, in this way, a better understanding and acceptance of the practical difficulties in implementation might be obtained.

The subject of Unit Pricing on items was brought up and this association stated that the government should work towards the uniform requirement of Unit Pricing of all items available to the consumer.

Committee's Comments:

The Committee is pleased that various government departments do inform such organizations as the Canadian Manufacturer's Association of newly implemented regulations. One of the primary concerns of this report is the finding of a method to keep the public abreast of newly implemented subordinate legislation. The Committee is in agreement

with the suggestion of prior consultation to insure that a final drafting of regulations reflects the concerns of those affected.

The Committee agrees with the practice of Unit Pricing and refers the continued implementation of this together with the other suggestions of the Canadian Manufacturer's Association to the Minister of Consumer Affairs for further consideration.

CIVIL SERVICE ASSOCIATION OF ALBERTA— — (Oral)

Nature of Submission:

The particular purpose of this submission was to point out the discriminatory effect of Alberta Regulations under Section 24 of the **Public Service Act,** (R. S. A. 1970, c. 298). Section 24 of the **Public Service Act** provides that:

> ". . . no employee of the Crown may acquire an interest in crown lands unless authorized by general regulations".

It was submitted that this statute section is discriminatory against civil service employees in that, in most cases, there is very little or no reason to restrict the acquiring of interests in Crown lands by civil service employees. Alberta Regulation #96/61, under Section 24 of the Public Service Act, states that:

> "An employee of the Crown may acquire, purchase, lease or otherwise obtain any interest in Crown lands only when . . . subdivision of summer cottage sites . . . lands advertised for disposition to the general public."

The regulation further provides that:

> "An employee so wishing to acquire such an interest must disclose the particular nature of his employment with the government and the details of that employment."

It was suggested by the Civil Service Association that the legislation and regulations are discriminatory on the grounds that they are far too broad and encompass a much larger scope of government personnel than is necessary to protect the public interest.

Committee's Comments:

The Committee notes that there may be the possibility of conflict of interest in this area and therefore recommends that present legislation remain substantially in force. The Committee recommends the review of each individual application by the Department of Lands and Forests and the Department of the Attorney-General in determining whether or not a conflict does exist. The Committee also suggests that amendment to the existing regulations may be necessary to add to the list of interests which may be acquired by an employee of the Crown together with a more detailed explanation of what information must be disclosed on application for acquiring such an interest.

ALBERTA HOTEL ASSOCIATION — (Written)

Nature of Submission:

The Alberta Hotel Association made general comments regarding the regulatory practice in various government departments. It was suggested that regulations should provide for greater departmental flexibility in meeting changing conditions. It was suggested that many of the regulations and rules contained therein should be incorporated in the governing legislation where they are a matter of public record so that they can be easily adhered to and located. It was further suggested that any indiscriminate issuing of regulations be terminated and that regulations be restricted to the barest possible minimum.

It was suggested that when legislation is being considered members of the civil service and the public should be consulted. This particularly applies to regulations where they have a direct practical effect on the citizens of the province.

In addition to these general comments, the Hotel Association drew the attention of the Committee to two particular aspects of Alberta regulations:

(1) **Minimum Wages and Tipping**
It was suggested that a majority of hotel employees obtain greater remuneration by way of tips than they do in wages. As a result of this certain hotel employees, it was submitted, do not require the minimum wage in order to meet what is considered to be an adequate remuneration for services. The Hotel Association suggests that consideration be given towards the deleting of various hotel employees from the minimum wage laws of the province. It was suggested that the Department of Manpower and Laobur and the Hotel Association co-operate in determining to which occupations this exception would apply. It was submitted that a 25% differential should be permitted in establishing the minimum wage of employees or classes of employees who are normally in receipt of tips.

(2) **Transportation of Female Employees (Midnight to 6:00 A.M.)**
It was suggested that the requirement that employers provide transportation to female personnel who finish or commence work between twelve o'clock midnight and 6:00 A.M. has ceased to be valid. It was suggested, that given the choice, most employees and employers would prefer payment of an increased hourly rate for females who are on duty between the hours of midnight and 6:00 A.M.

Committee's Comments:

With regard to the submission relating to the reduction of the Minimum Wage for employees receiving tips the Committee is opposed to any such suggestion. The Committee recommends that consideration be given to the pooling of tips for all employees rather than any suggested reduction of the minimum wage. These tips, once pooled, should be split thereby providing hotel employees with an added bonus to the minimum wage. It was suggested that such a bonus would do a great deal to ease employee problems in the hotel industry.

The Committee recommends that the Minister of Manpower and Labour inquire into the soliciting, collection and distribution of tips. It is suggested that the practice of tipping creates an unfair situation within many industries in this province and it may be advisable to prohibit tipping, or at least control it, by law.

With regard to the suggestion that the requirement for employers to furnish transportation for female employees working between the hours of midnight and 6:00 A.M., the Committee refers to recent amendments of the Labour Act, (S. of A. 1973, c. 33) and regulations deleting that provision.

CANADIAN FIREWORKS MANUFACTURERS ASSOCIATION — (Written)

Nature of Submission:

This submission urges a review and revision of Alberta Regulation 303/72. It was stated that this regulation severely restricts if not almost eliminates the sale and setting off of fireworks in this province. It was suggested that the Canadian Fireworks Manufacturers Association has long supported the reasonable regulation of the industry and the public, not only in the area of manufacturing, but in the area of selling and discharge.

It was suggested that fireworks should be classified as low, medium or high hazard and that low hazard or family fireworks should be readily available for sale in retail stores. It was suggested that high hazard or exhibition fireworks should not be sold to the general public.

The following amendments to Alberta Regulation 303/72 under the **Fire Prevention Act** were proposed:

(1) The definitions in section 1 be revised to conform with definitions in the revised Federal Fireworks regulations.

(2) Section 3 prohibiting sale of fireworks be amended to exclude Family Fireworks (low hazard) where they are used on private property.

(3) Section 10 respecting permits for public displays be amended to require that a permit applicant either be a certified fireworks supervisor or requiring that such a person supervise the display.

(4) Sections 11, 13 and 16 governing display safety should be amended to conform with the set backs and safety rules prescribed by the Manual of Display Fireworks published by the Federal Explosives Division.

(5) Section 12 should specify that at least one of those responsible for the firing of a display must be a certified fireworks supervisor.

Committee's Comments:

The Committee notes that this matter has been the subject of considerable review by various government agencies and departments and the Executive Council over past years. Amendments to the Fire Prevention Act (R. S. A. 1970, c. 144) Regulations restricting use of Fireworks were the result of public reaction to certain unfortunate experiences with fireworks. The Committee agrees with the amendments now made.

ALBERTA AVIATION COUNCIL — (Written)

Nature of Submission:

The Alberta Aviation Council stated general satisfaction with Alberta Regulation 163/70 which provides for permits under reasonable exceptions. The Alberta Aviation Council also expressed approval of the new **Planning Amendment Act** (S. of A. 1973, c. 43) and expressed appreciation for being consulted in the drafting of that piece of legislation.

Committee's Comments:

The Committee was pleased to note that the Alberta Aviation Council had been consulted by various government departments and agencies in the drafting of legislation and regulations. It is desirable for this procedure to be followed wherever possible.

AMERICAN SOCIETY OF HEATING, REFRIGERATING AND AIR CONDITIONING ENGINEERS — (Written)

Nature of Submission:

It was suggested that the **Builders' Lien Act of Alberta,** (R. S. A. 1970, c. 35) be revised and amended to provide for greater sureties and more stringently maintained trust accounts in the interest of protecting suppliers and various sub-contractors. In support of this proposal, it was noted that the British Columbia Builders' Lien Act provides considerably more protection for suppliers and sub-contractors.

Committee's Comments:

The Committee recognizes that this problem area deals basically with primary legislative amendment within the jurisdiction of the Attorney-General's department and that the **Builders' Lien Act** (R. S. A. 1970, c. 35) has been recently reviewed.

The Committee also notes recent amendments to the **Licensing of Trades and Businesses Act** (R. S. A. 1970, c. 207).

ROSS & CLOZZA, BARRISTERS & SOLICITORS — (Written)

Nature of Submission:

This submission concerns Section 48 of the **Builders' Lien Act of Alberta,** (R.S.A. 1970, c. 35). it was suggested that this section of the **Builders' Lien Act** seriously jeopardizes a **bona fide** mortgagee who has advanced money on a mobile home or a prefinished home that is simply attached to a foundation. Under this section it is possible for the Court to order the removal of the structure and thereby to seriously prejudice mortgage security.

Committee's Comments:

This matter deals with legislation and the Committee refers to its suggestion under the American

Society of Heating, Refrigeration and Air-Conditioning Engineers that the **Builders' Lien Act** be reviewed by the Attorney-General.

COMMUNITY SERVICE CENTRE — (Written)

Nature of Submission:

It was suggested that Section 64 of the **Municipal Government Act,** (R. S. A. 1970, c. 246) and the regulations thereto be amended to provide that only a qualified chartered accountant can perform the required audit. It was further suggested that Section 35 of the **Societies Act,** (R. S. A. 1970, c. 346) be amended to provide for the same professional auditing.

Committee's Comments:

The Committee suggests that the various municipal associations and societies should be left to provide for their own specific type of accounting and auditing according to their own circumstances as presently required under the statute.

UNITARIAN SERVICE COMMITTEE — (Written)

Nature of Submission:

This agency has suggested that it would be more convenient if voluntary charitable agencies were allowed to file their annual reports coincidental with the close of their fiscal year. Such a provision, it was suggested, would facilitate the use of regular annual audit and other accounting figures. It was noted that there was a great deal of divergence amongst the provinces about time for the submission of accounting records and this divergence creates a considerable amount of difficulty.

Committee's Comments:

The **Public Contributions Act,** (R. S. A. 1970, c. 292) deals with this matter and the Committee feels that there is no need for further legislative provision as it is clear that a charitable institution can apply its own fiscal year to the requirement for a financial statement. Also, Alberta Regulation 607/57 requires that a financial statement be submitted prior to the first day of November following the end of the organization's fiscal year. It appears that these two legislative provisions deal adequately with the problem that was submitted.

NATIONAL FILM THEATRE/EDMONTON — (Oral)

Nature of Submission:

The specific submissions of the Edmonton National Film Theatre were:

(a) that **bona fide** study groups be granted educational status or some other special status and, thereby be exempted from censorship, particularly if they are limited to attendance of adults 18 years and over;

(b) that adult members of film study groups be allowed to bring small children where a previously classified film allows the admission of children or youths;

(c) that film study groups be authorized to offer a special family serial for children and young people even when unaccompanied by parents;

(d) that films for film study groups be exempted from censorship fees.

In addition to these specific recommendations relating to the operations of the Film Study group, it was recommended:

—that classification of various films be periodically updated (approximately every ten years).

—that the fees for censorship on various size prints should be similar and should not discriminate on the basis of film size.

—that censorship charge for prints should only apply to the first edition and should not be placed on subsequent editions.

Committee's Comments:

Alberta Regulation #72/57, under the Amusements Act, Part II, Section 18 provides that:

"regulations with respect to consorship, classification of films and fees, . . . s. s. (13) the Minister may grant full or partial exemption from censorship fees in respect of any film that—

(a) is an educational or cultural film to be distributed without fee as a public service; and

(b) is not intended primarily to induce the viewer to purchase goods or patronize the services of any person; and

(c) will not be exhibited at a commercial theatre or other place where an admission fee is charged."

The regulation-making empowering clauses under the Amusements Act, (R. S. A. 1970, c. 18) state:

"s. 29

The Lieutenant Governor-in-Council may make regulations . . . (there are some 23 sections governing various areas under the Amusements Act, one of those areas being motion pictures . . . (19) prescribing —

(i) the classification of films as family pictures for universal exhibition or on any other system of division,

(ii) the denoting mark or words to be used, with respect to any class of film in advertising or in other printing, written or pictorial matter relating to a class or classes of film,

(iii) that all or any of the advertising or other matter be submitted to the Censor or the Board of Censors and not to be used within the province except with his or their approval, and

(iv) the penalties for the contravention of any regulations made under this clause, . . .

s. (17)

sets out the fees to be paid to the Censor or Board of Censors and designates the persons by whom the manner in which the fees are to be paid and collected, . . . etc".

In studying this submission and the above set out regulations the Committee experienced difficulty in arriving at a proper definition for a **bona fide** film study group but did recognize merit in allowing exemptions from censorship fees for films specifically shown for legitimate educational purposes.

The Committee notes that the Report of the Special Committee on Censorship was tabled on November 3, 1972.

MRS. M. TRAVERS — (Oral)

Nature of Submission:

This submission began with a re-statement of the recommendations contained in the National Film Theatre/Edmonton submission. Mrs. Ulrich is a member of that organization and as such is particularly concerned with alleged abuses as pointed out by the National Film Theatre/Edmonton group.

In support of those suggestions Mrs. Travers presented the Committe with some 50 pages of correspondence and other materials dating back to 1967 between herself, as a representative of the National Film Theatre/Edmonton, and the various Ministers in charge of Film Censorship. This correspondence discloses considerable government administrative reluctance to disclose established guidelines and policies. In particular, Mrs. Travers was refused access to the guidelines and policies used by the Censorship Board. In addition Mrs. Travers, by her correspondence file, disclosed that for some time (almost two years) it was impossible to obtain a copy of the Censorship Regulations under the **Amusements Act**. She was lent several copies of the Censorship Regulations by the Censorship Board for one day only for the purposes of a preparation of a brief and her appearance before this Committee.

Finally, the correspondence and the nature of Mrs. Travers' submission would tend to indicate that her complaints and recommendations of the past two years have fallen on seemingly deaf ears. A number of those complaints are contained in the submission of the National Film Theatre/Edmonton. Mrs. Travers points out that, at no time, were any of her suggestions ever mentioned let alone approved by any government department or committee.

Committee's Comments:

The Committee makes the following comments regarding Mrs. Travers' experiences:

—It does not seem appropriate that Mrs.Travers was denied access to policy and guideline material used by the Censorship Board, or for that matter, any government board.

—It would seem contrary to all democratic principles that any person be unable to obtain copies of any regulations.

—It would seem that governmental treatment of Mrs. Travers' suggestions and recommendations have not been adequate. The Committee recommends consideration and review of Mrs. Travers' submission by the Minister of Culture, Youth and Recreation and that a reply be sent to her.

It was suggested that:

(1) Regulations are necessary but must be used with caution.

(2) Regulations should not be used to bypass legislative process.

(3) Authority for regulations must be in the legislation and approved by the Legislature.

(4) Those preparing regulations must be competent and made aware of their responsibilities.

(5) A Committee of the Executive Council should be responsible for the review of all regulations prior to their submission to the Executive Council.

(6) Industry should be asked to assist in the preparation of regulatons affecting them, e. g. — Worker's Compensation Board safety regulations, — Board of Industrial Relations board orders.

(7) All regulations should be reviewed every three to five years to ensure the original purpose is being served.

The Committee agrees in substance with these comments and points out that they are dealt with in the general body of the report.

APPENDIX C
#1

MEMORANDUM TO GOVERNMENT DEPARTMENTS

C. J. Wilson, Research Assistant,
Select Committee of the Legislature on Regulations

ALL CABINET MINISTERS June 29, 1973

In the work of this Committee, the following statutory powers have been defined:

(i) Those conferred on Ministers to make regulations, rules, or orders which, when made, become law upon filing with the Registrar of Regulations.

(ii) those conferred on the Ministers to make ministerial orders which become administrative directives, which control the workings of Departments, and though not law are not open to public examination.

(iii) those which give rise to the ministerial power to set out precedents and policy guidelines which affect not only the operation of the Department but its contact with the public.

Accordingly, I would ask that you consider these powers and submit any comments or suggestions which you might have in aid of the Committee's work in reviewing Alberta Regulations.

I would appreciate any material you might have on this matter and an indication of whether or not you, or anyone else you could appoint, would be willing to attend a committee meeting and comment further on the regulations and how they are implemented and affect the workings of your Department.

C. J. Wilson,
Research Assistant

APPENDIX C
#2

SELECT COMMITTEE ON REGULATIONS

503 Legislative Building
EDMONTON, Alberta
T5K 2B6
July 16, 1973

Further to our memorandum of June 29, 1973 I wish to bring to your attention further information with regard to the work of our Committee. As recorded in Alberta Hansard, Volume 2, Number 56, Page 56-3062, the Committee was established on May 10, 1973.

". . . with instructions to invite submissions from the public concerning Alberta Regulations, consider same, and make recommendations to the fall session of this Assembly."

During the course of its deliberations, the Committee will be seeking comments and suggestions not only from the general public but also from the various administrative departments of our Government. The Committee's work has been viewed as two-fold:

1. To examine the process of Government by Regulation and make general recommendations regarding this process and its improvement; i.e. more advanced consultation, greater debate and publicity of regulations, need for reform of this type of administration, perhaps greater accountability of the Legislature, warrant for a consolidation of the regulations, desirability of a continuing Scrutiny Committee on Regulations; and

2. To consider submissions on specific regulations with which the public (and Government Departments) are encountering difficulties, and make recommendations on same.

Therefore, the Committee has decided to seek the assistance and comments of the various administrative Departments in aid of its work. Specifically, we would ask for some type of compilation of:

a. The powers exercised in your Department and how they are exercised — Ministerial Orders, Orders-in-Council, etc. (perhaps a record of such for one year would be helpful to us).

b. Your comments on what should or should not be a regulation (i.e. policy, directives, precedent).

c. Suggestions on how our present system of administration by regulation could be improved.

d. Indication of how the regulations emanating from your Department are drafted and details with regard to advance consultation with affected parties.

I am enclosing herewith a copy of an item which has been prepared by Mr. C. J. Wilson, our Committee's Research Assistant, which will be used throughout the visits which our Committee members will be making in various jurisdictions across Canada. This item indicates the kinds of questions which will be asked and the type of information which the members will be seeking of the Federal Government, and the Provincial Governments in Ontario, Quebec, Manitoba and Saskatchewan.

We would be pleased to know if it would be possible to arrange a meeting between yourself and the Committee members on August 17 at 10:00 a.m. We thank you for any assistance you may be able to give us and look forward to hearing from you.

Yours truly,
R. Zander, M.L.A.
Chairman

APPENDIX D

MEMORANDUM TO GOVERNMENT DEPARTMENTS

MEMORANDUM

FROM: R. Zander, Chairman,
Select Committee on Regulations

DATE: August 29, 1973

TO: All Ministers
Deputy Ministers
Executive Assistants
Department Directors

The Select Committee of the Legislature on Regulations is holding public hearings in Calgary on September 4th and 5th, 1973 at the Assembly Room, Jubilee Auditorium, and in Edmonton on September 6th and 7th, 1973 in Room 312 of the Legislature Building. This Committee would be most pleased if any senior civil servant official or Minister could attend the hearings.

It is anticipated that public response to the hearings will be reasonably good and several written submissions have already been received. In the interests of better communication between departments and those making submissions, the attendance of officials from the various government departments would be most helpful. Particularly, the Committee would be interested in hearing the views of senior civil servants on matters brought to the attention of the Committee by the public making submissions.

As many of the processes of government departments are run by regulation and as many departments use policy manuals, the Committee would be most interested in hearing views of civil servants on this matter. In particular, the Committee has received several submissions relating to social allowances, liquor control regulations, Highway Traffic Act regulations, oil and gas regulations and licensing of businesses regulations.

The Committee would like to extend a special invitation to all Ministers of government departments to attend the hearings and observe the proceedings. Ministers are also invited to participate in any way they may deem fit.

R. Zander

APPENDIX E

POWERS AND DUTIES OF STANDING COMMITTEES OF THE LEGISLATURE CHAPTER 5

1. DEPUTY SPEAKER, COMMITTEES

Special Committee, Select Standing Committees and Members' Services Committee

46. (1) At the commencement of each Session, a Special Committee, consisting of seven members, shall be appointed, whose duty it shall be to prepare and report, with all convenient speed, lists of members to compose the Select Standing Committees of the Assembly, for the following purposes:

(a) Priviliges and Elections, Standing Orders and Printing

(b) Public Accounts

(c) Private Bills

(d) Law and Regulations

(e) Public Affairs

(2) At the commencement of the first Session of each Legislature, the Special Committee referred to in Standing Order 46(1) shall prepare and report a list of members to compose the Special Select Committee of the Legislature on Members' Services.

(3) The Clerk of the Assembly shall post in the Legislature Building lists of members of the several standing and special committees appointed during each Session.

(4) Public Accounts, when tabled, shall automatically stand referred to the Public Accounts Committee.

Committee of Supply

47. There shall be a Committee of the Whole Assembly called the Committee of Supply.

48. (1) No Special Committee may, without leave of the Assembly, consist of more than eleven members; such leave shall not be moved for without notice; and in the case of members proposed to be added or substituted, after the first appointment of the Committee, a new notice shall be given including the names of the members proposed to be added or substituted.

(2) No member can be nominated to a committee who declares or decides against the principle of a Bill, resolution or matter to be committed to that committee.

(3) One-third of the members of a Select Standing or Special Committee constitute a quorum, unless the Assembly has otherwise ordered.

Meet during Sitting

49. (1) A committee may not meet during the hours the Assembly is sitting except by leave of the Assembly.

(2) A motion for leave under Standing Order 49(1) is not debatable but the mover of the motion shall explain why it is necessary for the committee to meet while the Assembly is sitting.

Chairman and Deputy Speaker

50. (1) A chairman of Committees, who shall also be Deputy Speaker of the Assembly, shall be elected at the commencement of every Legislature, as soon as an Address has been agreed to in answer to His Honour's Speech.

(2) The member elected as Deputy Speaker and Chairman of Committees shall continue to act in that capacity until the end of the Legislature for which he (or she) is elected, and in the case of a vacancy by death, resignation or otherwise, the Assembly shall proceed forthwith to elect a successor.

(3) The Deputy Speaker and Chairman of Committees shall, if in his (or her) place in the Assembly, take the Chair of all Committees of the Whole.

(4) In the absence of the Deputy Speaker and Chairman of Committees, Mr. Speaker may, in forming a Committee of the Whole Assembly, before leaving the Chair, appoint any member Chairman of the Committee.

Committee of Supply procedure and sub-committees

51. (1) The Committee of Supply may establish subcommittees consisting of members of the Assembly and, with respect to each subcommittee so established, shall designate its name, appoint its members and designate its Chairman.

(2) One-third of the members of a subcommittee appointed under this Standing Order constitutes a quorum at any meeting of that subcommittee.

(3) Upon the submission of the Estimates of the Assembly and their referral to the Committee of Supply, the Committee of Supply may refer any portion thereof to one of its subcommittees for that subcommittee's report thereon.

(4) At any meeting of a subcommittee established under this Standing Order, a member of the Assembly who is not a member of that subcommittee is entitled to attend at and participate in the meeting.

(5) When a subcommittee has completed its consideration of any portion of the Estimates referred to it, the Chairman of that subcommittee shall so report to the Committee of Supply.

(6) No substantive vote shall be made in a subcommittee, except to conclude discussion and rise and report.

(7) When any portion of the Estimates is considered by the Committee of Supply, then, upon completion of its consideration, a Minister of the Crown shall present to the Committee a supply resolution relating to that portion of the Estimates.

(8) When a supply resolution has been passed by the Committee of Supply, the Chairman shall report the resolution to the Assembly.

(9) When the consideration of all the Estimates has been completed, the Chairman of the Committee of supply shall submit to the Assembly a report summarizing the supply resolutions passed by the Committee.

Standing Orders in Committees

52. (1) The Standing Orders of the Assembly shall be observed in the Committees of the Whole Assembly so far as may be applicable, except as to limiting the number of times of speaking.

(2) Speeches in Committee of the Whole Assembly must be strictly relevant to the item or clause under consideration.

(3) The Chairman shall maintain order in the Committees of the Whole Assembly, deciding all questions of order subject to an appeal to the Assembly but disorder in a Committee can only be dealt with by the Assembly, on receiving a report thereof.

(4) From the Chairman's decision no appeal may be made to Mr. Speaker.

(5) In case of an appeal to the Assembly, the Chairman shall leave the Chair immediately and report in writing the point of order which he has decided.

(6) Mr. Speaker shall then submit the matter to the determination of the Assembly in the language reported to him and put the question, "That the decision of the Chairman be confirmed".

(7) No debate shall be allowed on the appeal.

(8) If Mr. Speaker is absent, the Chairman shall take the Chair of the Assembly and another member shall make the report of appeal to the acting Speaker who shall at once submit the question to the Assembly for its decision.

Referral to a Committee

53. A motion to refer a Bill, resolution or any question to the Committee of the Whole, or any standing or special committee, shall preclude all amendment of the main question.

Motion to Leave the Chair

54. (1) A motion that the Chairman leave the Chair

(a) is always in order,

(b) takes precedence of any other motion, and

(c) is not debatable.

(2) Such motion, if rejected, cannot be renewed unless some intermediate proceeding has taken place.

(3) Only one amendment and not more than two sub-amendments may be made to a motion for Mr. Speaker to leave the Chair for the Assembly to go into Committee of Supply.

Committee Reports

55. (1) The report of a committee shall be signed only by the chairman, even if the chairman dissents with the majority of the committee.

(2) No minority report shall be made to the Assembly.

Committee Witnesses

56. (1) No witness shall be summoned to attend before any committee of the Assembly except by order of the committee or the Assembly.

(2) The Clerk of the Assembly is authorized to pay to witnesses so summoned a reasonable sum per diem during their travel and attendance and a reasonable allowance for travelling expenses, all to be determined by Mr. Speaker.

(3) The claim of a witness for payment shall state

(a) the number of days during which he has been in attendance,

(b) the time of necessary travel, and

(c) the amount of his travelling expenses,

and shall, before being paid, be certified by the chairman of the committee before which the witness has been summoned.

APPENDIX E

POWERS AND DUTIES OF STANDING COMMITTEES OF THE LEGISLATURE.

CHAPTER IX

2. STANDING AND SPECIAL COMMITTEES; WITNESSES

Report by Printing Committee.
Special Committees.
Quorum.
Reports From Committees.
Certificate For Summons of Witnesses.
Payment of Witnesses.
Exceptions.

STANDING ORDERS

65. [10th July, 1906; 19th February, 1909; 27th March, 1924; 22nd March, 1927]. (1) At the commencement of each session, a special committee, consisting of five members, shall be appointed, whose duty it shall be to prepare and report, with all convenient speed, lists of members to compose the following standing committees of the House:

(a) on Privileges and Elections, to consist of 29 members, 10 of whom shall constitute a quorum;

(b) on Railways, Canals and Telegraph Lines, to consist of 60 members, 20 of whom shall constitute a quorum;

(c) on Miscellaneous Private Bills, to consist of 50 members, 15 of whom shall constitute a quorum;

(d) on Banking and Commerce, to consist of 50 members, 15 of whom shall constitute a quorum;

(e) on Public Accounts, to consist of 50 members, 15 of whom shall constitute a quorum;

(f) on Agriculture and Colonization, to consist of 60 members, 20 of whom shall constitute a quorum;

(g) on Standing Orders, to consist of 20 members, 8 of whom shall constitute a quorum;

(h) on Marine and Fisheries, to consist of 35 members, 10 of whom shall constitute a quorum;

(i) on Mines, Forests and Waters, to consist of 35 members, 10 of whom shall constitute a quorum;

(j) on Industrial Relations, to consist of 35 members, 10 of whom shall constitute a quorum;

(k) on Debates, to consist of 12 members, 7 of whom shall constitute a quorum;

(l) on External Affairs, to consist of 35 members, 10 of whom shall constitute a quorum.

(2) On Printing, to act as members on the part of this House on the Joint Committee of both Houses on the subject of the printing of parliament, to consist of 23 members.

On the Library of Parliament, so far as the interests of this House are concerned, and to act as members of the Joint Committee of both Houses, to consist of 21 members.

Provided that a sufficient number of members of joint committees shall be appointed so as to keep the same proportion in such committees as between the memberships of the House of Commons and Senate.

(3) The Clerk of the House shall cause to be affixed, in some conspicuous part of the House, a list of the several standing and special committees appointed during the session.

66. [20th December, 1867]. On motion for printing any paper being offered, the same shall be first submitted to the Joint Committee on Printing, for report, before the question is put thereon.

67. [20th December, 1867; 22nd March, 1927; 12th July, 1955]. (1) No special committee may, without leave of the House, consist of more than fifteen members; such leave shall not be moved for without notice; and in the case of members proposed to be added, after the first appointment of the committee, a new notice shall be given including the names of the members proposed to be added.

(2) A majority of the members of a special committee shall be a quorum unless the House has otherwise ordered.

68. [20th December, 1867]. Reports from standing and special committees may be made by members standing in their places, and without proceeding to the Bar of the House.

69. [20th December, 1867]. (1) No witness shall be summoned to attend before any committee of the House unless a certificate shall first have been filed with the chairman of such committee, by some member thereof, stating that the evidence to be obtained from such witness is, in his opinion, material and important.

(2) The Clerk of the House is authorized to pay out of the contingent fund to witnesses so summoned a reasonable sum per diem during their travel and attendance, to be determined by Mr. Speaker, and a reasonable allowance for travelling expenses.

(3) The Claim of a witness for payment shall state the number of days during which he has been in attendance, the time of necessary travel and the amount of his travelling expenses, which claim and statement shall, before being paid, be certified by the chairman and clerk of the committee before which such witness has been summoned.

(4) No witness residing at the seat of government shall be paid for his attendance.

ANNOTATIONS, COMMENTS AND PRECEDENTS

285. (1) Originally the word "Committee" was used for the member to whom the study of a Bill was entrusted. In 1557 a Bill was committed to be perused by Mr. Fitzchamberlyn. He was the committee. When more than one person was selected to study a measure the committee was referred to in the plural as "the Committee have held six sittings, the Committee are of the opinion, etc." This style is still in use in the United Kingdom House of Parliament.

(2) A committee which is appointed beforehand, for the consideration of all subjects of a particular class, arising in the course of the session, is denominated a "standing" committee. C., No. 1856.

(3) Prior to 1906 there was no Standing Order for the appointment of the Standing Committees, but a motion was first made that they be appointed for certain purposes and, when that was passed, it was moved that a special committee be appointed to prepare lists of members to compose the select Standing Committees ordered by the House. See B., 2nd ed., pp. 493-4.

(4) The motion for the appointment of the Special Committee to prepare the lists of the Standing Committees is made as soon as the speech from the throne has been reported by the Speaker on the return of the House from the Senate.

(5) This committee reports the selection of the Standing Committees without delay and the report is generally adopted immediately after its presentation.

(6) It is then moved that the said Standing Committees be severally empowered to examine and enquire into all such matters and things as may be referred to them by the House, and to report from time to time their observations and opinions thereon with power to send for persons, papers and records.

286. It is important that the motion for the appointment of the committee should state whether the committee shall report from time to time, for if it should report once without having been given such power, it will be defunct but may be revived. Special authorization should also be given to sending for persons, papers and records.

A select special committee ceases to exist on the moment its final report is presented to the House. The report cannot afterwards be sent back to the committee with instruction to amend it in any particular. If further proceedings are desired it is necessary to revive the committee. (105 C.J., 201; M. 486.)

287. A committee upon a matter of privilege may be appointed and nominated forthwith without notice, such a committee having been held not to be governed by any of the orders applicable to the appointment and nomination of other Select Committees.

288. Committees are regarded as portions of the House and are governed for the most part in their proceedings by the same rules which prevail in the House.

Every question is determined in a committee in the same manner as in the House to which it belongs. M. 478.

Until the quorum is present, the committee cannot proceed to business. It is the duty of the Clerk attending the committee to call the attention of the Chairman to the fact when the number of members present falls below the quorum, whereupon the Chairman must suspend the proceedings until a quorum be present or adjourn the committee to some future day. See May, 461. Red. 2, 189.

What is the effect of the absence of a quorum upon the validity of a committee's proceedings? The Speaker of the British House of Commons, speaking of a Bill which was in committee when the latter rose for want of a quorum said: "On the assumption that the committee met and proceeded without a quorum, I should be of opinion that the committee, properly speaking, was never constituted and did not meet, and that none of the work done could be accepted as being the work of that particular committee. If there is a quorum when a committee begins to work and that quorum melts away, it will be for the House, I think, in each case, to determine whether it would be necessary to recommit the Bill. Parl. Deb. 177, 4s, 716.

If several members persist in not attending a committee to which they have been appointed, in order to prevent it from dealing with a question to which they are opposed, they can be adjudged guilty of contempt. Every member of a legislative body is bound to serve on a committee to which he has been duly appointed, unless he can show the House that there are conclusive reasons for his non-attendance. If a member is not excused and nevertheless persists in refusing to obey the order of the House, he can be adjudged guilty of contempt. (B. 462.) It is the duty of Standing Committees, as of all committees, to give to the matters referred to them due and sufficient consideration. (M. 464.)

289. Disobedience to the orders of a committee is a contempt of the House by which the committee was appointed, provided the orders are within the scope of the committee's authority. The following instances are given in May's 15th edition: disobedience to orders for the attendance of persons made by committee duly authorized in that behalf, disobedience to orders for the production before committees of papers or other documents; delivering to another person a book or copies of letters some of which related to the affairs of a certain company after receiving an order to lay before a committee all books and writings in his custody relating to that company; refusing to permit books or papers to be inspected when required by orders of the committee.

290. The term "select" or "special" committee, is usually applied to designate a committee appointed to consider a particular subject, on the occurrence of the occasion for its appointment, as where a committee is appointed to consider a petition or report or to make special enquiries. Select Committees are sometimes turned into Standing Committees by instructions enlarging the original order of reference.

291. When the House is engaged in nominating the members of a committee, it is not competent for an honourable member to open the whole subject. (Hans., 3s., Vol. 239, p. 239.)

When the House is considering a motion, of which notice has been given, for the appointment of a select committee, a member cannot move in amendment that the committee be given wider powers than those which were set down in the notice. On the 13th March 1938, a minister moved that a special committee be appointed to study the question of redistribution of electoral districts and to enquire into the methods whereby the source of campaign funds may be traceable. Two amendments were moved: one proposed that the committee's powers be extended so as to investigate amounts of contributions over $100.00 for the past ten years; the other proposed to investigate the methods whereby lumbermen, fishermen, seamen and miners in British Columbia may be enabled to exercise their franchise. The Speaker ruled both amendments out of order on the ground that they raised new questions not contemplated in the notice of motion and proposed to exend the committee's powers far beyond those set down in the notice, and also that the necessity of giving notice will be nullified if such notice is not used as a guidance for the decision of the House. (Can. C. J., Vol. 77, pp. 184-5.)

292. (1) A member who is ill may ask the House through another member to be excused from attendance on a committee.

(2) A member has been substituted for another on a Committee of the Canadian Commons on account of the member originally appointed having acted as counsel for the parties interested in the matter before the committee. Can. Com. J., (1884), 239, 240; or on account of a member of his family being directly affected by the issue; or on account of a member being unable to attend.

(3) The Speaker in the British House has refused to allow a motion for the nomination of another member to be made after the number of members of which the committee had been ordered to consist had been nominated, without leave of the House previously obtained. 112 C.J. 157.

(4) A member must be totally opposed and not simply take exception to certain particulars of a Bill or motion, in order to be excluded from a committee. A member who opposes merely the appointment of a committee cannot be considered as coming within the meaning of the rule. B., 461, 462.

293. On a motion that a select committee be appointed to examine the recent rise in the cost of living and an amendment that the committee be empowered to examine the effort of present government policies in lessening agricultural production, the Speaker ruled as follows: "Though I find this amendment relevant to the main motion, I cannot yet overlook the fact that questions of policy are so complex that they should not be moved as corollaries to the appointment of such a committee as the one now proposed. It is against all parliamentary usage to refer questions of policy to a fact finding committee. I find that the great Speaker Denison decided in 1877, and his decision still holds good, that "it is not competent, without notice to add a distinct question to a motion or to combine in one two distinct propositions." When an amendment is irregular in one particular, the whole of it is not admissible and must be ruled out of order. This is sound practice and, for that reason, I declare the amendment out of order. C.J., Vol. 84, p. 114-115.

294. (1) A select committee, having only a delegated authority, cannot, without the leave of the House, divide itself into sub-committees and apportion its functions among such sub-committees, or delegate to a sub-committee any of the authority delegated to it by the House (Parl. Deb. 1819, 39. cc 776-77). A committee may, however, avail itself of the services of its members individually or in the form of sub-committees for purposes connected with the business of the committee, such as drafting, which do not involve a delegation of authority. In special cases, however, committees have been empowered to divide themselves into sub-committees and to apportion the subjects referred to their consideration between such committees, such sub-committees having the same powers as the whole committee; or to appoint one or more sub-committees with power to send for persons, papers and records, and to sit notwithstanding any adjournment of the House, to take evidence or to consider any matter that may be referred to them by the committee. (C.J. 1932-33, 266; do 1933-4, 12; do 1934-5, 32.)

(2) Committees which have been empowered to appoint sub-committees have also been given certain directions by the House relating to the appointment and powers of sub-committees, (C.J. 1943-4, 13, 14) with respect to co-ordination, appointment of a chairman or the fixing of the quorum. M.

(3) Where committees are empowered to appoint sub-committees they are sometimes authorized to appoint from outside their own body additional persons to serve on such sub-committees. C.J. 1920, 44, 151.

A sub-committee may not report directly to the House, but only to the committee by which it has been appointed. Where the examination of witnesses is delegated to a sub-committee, it is customary for the appointing committee to report the evidence taken by the sub-committee to the House.

(4) On giving power to select committees to appoint sub-committees, the House has also ordered that every such sub-committee must report any evidence taken to the select committee. (C.J. 1943-44, 13-14.)

295. (1) Under Standing 12, the Speaker's decisions on points of order are subject to an appeal to the House and, under Standing Order 59, sec. (4), the decisions of the chairman of a committee of the whole in questions of order are subject to an appeal, not to the committee itself, but to the House. No Standing Order provides for an appeal from the Chairman of a Standing or select committee; but it has sometimes happened in Standing and select committees that appeals were taken from the chairman's decisions to the committee and even to the House itself. On July

24, 1956, an appeal was taken to the House from the Standing Committee on Banking and Commerce, and the Speaker ruled that the chairman's ruling should be settled in the Committee and not reported to the House. The House cannot be guided in a matter of this kind by precedents from the United Kingdom House of Commons where appeals are unknown. An appeal from a decision given by the Speaker or a Chairman is not a postulate of British parliamentary law, but has been established in Canada by a Standing Order which does not apply to select or standing committees. It seems therefore that a reversal by the committee, of the chairman's ruling, would be ineffective.

(2) A committee has no authority to punish on of its members or other person, for any offence sommitted against it, as by disorderly words or contemptuous conduct, as, for example, when a witness refuses to testify, or prevaricates, but can only report such offences to the House for its animadversion. C., 1914.

296. A private member's notice of motion that the government should give consideration to the advisability of setting up a special committee of the House is out of order for it takes for granted that the government is vested with the right to appoint committees of the House. The Executive Power cannot encroach upon the Legislative; they are both distinctly described in the British North America Act where it is also stated that the Constitution of Canada shall be similar in principle to that of the United Kingdom.

297. (1) A committee, either select or standing, has no power to send for any papers unless duly authorized to do so by resolution of the House. For this reason every motion for the appointment of a select committee provides that it will have power to send for papers and records.

(2) As for Standing Committees the following motion is passed as soon as they are appointed at the commencement of the session:

"That the Standing Committees of the House shall severally be empowered to examine and inquire all such matters and things as may be referred to them by the House; and to report from time to time their observations and opinions thereon; with power to send for persons, papers and records."

(3) A committee cannot require an officer of a public department to produce any paper which, according to the rule and practice of the House, it is not usual for the House itself to order to be laid before it. If consideration of public policy can be urged against a motion for papers it is either withdrawn or otherwise dealt with according to the judgment of the House.

298. (1) A committee having the right to exclude strangers at any time, it may be inferred that it has the right to sit in private, and its proceedings are protected by privilege. The publication of its proceedings in that case would be an offence which the House could deal with after having received a report thereon from the committee.

(2) When a committee deems it advisable to hold a secret meeting, it would be wise to agree to a resolution such as the following which was adopted with respect to a private Bill on 21 May 1941, by a committee of the United Kingdom House of Commons:

"The Committee will sit in private, that is to say, the press and general public will be excluded from the proceedings. The agents for the promoters and the petitioners have been asked to furnish the clerk with a nominal list of all persons, including counsel, whose attendance is essential to the proceedings. The room will be cleared, and the clerk, with the assistance of the agents, will check the names on the lists at the door of the room as each person enters. A copy of the complete list will be given the Sergeant-at-Arms for transmission to the police who will have instructions to admit no person whose name is not on the list."

299. (1) When in the opinion of the House, secrecy ought to be maintained, Secret Committees are appointed, whose enquiries are conducted throughout with closed doors, and it is the invariable practice for all members, not on the committee, to be excluded from the room throughout the whole of its proceedings.

(2) There is a distinct difference between committees sitting in camera for the purposes of deliberations and secret committees. The proceedings of secret committees are the property of the House of Commons after the committee has reported, and no true question of privilege arises if a member divulges to the House those proceedings. The purpose behind in camera meetings is that the members may feel free to negotiate, to discuss, to deliberate and sometimes perhaps to compromise without the glare of publicity, which might add to the difficulties of agreeing to reports; and it is desirable that these proceedings be treated as in confidence. The final decision rests with the members themselves. C.J. Vol. (1955). See statement by Acting Deputy Speaker G. T. Applewaite.

300. (1) Committees are not permitted to sit and transact business during the sittings of the House without obtaining special leave upon a report.

(2) Committees, in the Canadian Commons, frequently sit on Saturday.

(3) A motion that a Select Standing Committee be allowed to sit while the House is in session cannot be made without a report on the subject having first been received from the committee. (Can. C.J., 1895, Vol. 29, p. 241.)

301 (1) Committees may be authorized by the House to adjourn from place to place as may be found expedient—or meet at a particular place, but no committee can sit after a prorogation. B. 467.

(2) In 1873, a select committee was appointed to inquire into certain matters relating to the Canadian Pacific Railway with power to sit after the prorogation; but on close examination, it was found and agreed by the leaders of the House that this procedure was not regular. Sir John A. MacDonald, addressing the House on the subject, on the 3rd November, 1873, said: "On consideration, we found that this House could not confer the power (to sit after prorogation) and for a very substantial reason, because if this Parliament could appoint a committee to sit during the recess it could also appoint a Committee of the Whole House to sit during the recess, and thus the prerogative of the Crown to prorogue would be invaded, and Parliament as a Committee of the Whole

might sit indefinitely." It was then arranged that the House should take a long adjournment so as to enable the committee to complete its investigation and frame its report.

302. (1) Members of the House of Commons are entitled to be present at the sittings of committees of the House, as well during the deliberations of the committees as while witnesses are being examined; (but they must not interfere in the proceedings); and though, if requested to retire, they rarely make any objection, and ought, on the grounds of established usage and courtesy to the committee, immediately to retire when the committee is about to deliberate, the committee, in case of their refusal, has no power to order them to withdraw. As members cannot be excluded from a committee room by the authority of the committee, if it desires that other members should not be present at its proceedings, and such members refuse to withdraw, it should adjourn and, if they persist in attending at subsequent meetings, the committee should apply to the House for power to effect their exclusion. M. 15th ed. 610.

(2) A committee has been instructed to hear parties by counsel or otherwise; and, on the other hand, the order of the House has provided that such hearing of persons interested shall be at the discretion of the committee.

(3) Strangers are permitted to be present during the sittings of a Committee of the Commons, but they may be excluded at any time, and are to withdraw when the committee is discussing a particular point of order, or deliberating on its report.

303. (1) The Standing Committee having met, the members will proceed to elect a Chairman. In case a difference of opinion arises as to the choice of a Chairman, the procedure of the House with respect to the election of a Speaker should be followed.

(2) The names of the members present each day must be entered in the minutes by the Clerk, and may be reported to the House on the report of the committee; but it is usual to do so only when the question is of particular importance, and all the proceedings are reported.

(3) Committees should be regularly adjourned from day to day, though the Chairman is frequently allowed to arrange the day and hour of sitting, but this can be done only with the general consent of the committee. B., 466.

304. (1) A committee can only consider those matters which have been committed to it by the House. C.J., Vol. 65; 539, 871.

(2) A committee is bound by, and is not at liberty to depart from, the order of reference. (B. 469.) In the case of a Select Committee upon a Bill, the Bill committed to it is itself the order of reference to the committee, who must report it with or without amendment to the House. M. 468.

(3) When it has been thought desirable to do so, the House has enlarged the order of reference by means of an instruction or in the case of a Select Committee upon a Bill by the committal to it of another Bill. Mandatory instructions have also been given to Select Committees restricting the limits of their powers or prescribing the course of their proceedings, or directing the committee to make a special report upon certain matters.

(4) Sometimes a committee may have to obtain leave from the House to make a special report when its order of reference is limited in scope. B. 471.

305. Sometimes when a committee requires special information it will report to the House a request for the necessary papers which will be referred to it forthwith. Can. C.J., Vol. 9, p. 176.

The committee can obtain directly from the officers of a department such papers as the House itself may order, but in case the papers can be brought down only by address, it is necessary to make a motion on the subject in the House through the Chairman. B. 470. 471.

306. (1) Where Select Committees have been appointed to inquire into matters in which the private interests, character or conduct of members of the House of Commons or other persons are concerned, the committees may hear counsel on behalf of such persons, the order of the House for that purpose being obtained on petitions presented to the House, on the report of the committee, or on a motion to that effect. M. 481. B. 469.

(2) If any information comes before any special committee charging any member of the House, the committee shall only acquaint the House with the matter of such information without proceedings further thereupon.

307. The Senate or the House of Commons may at any time order witnesses to be examined on oath before any committee.

Any committee of the Senate or House of Commons may administer an oath to any witness examined before such committee.

The signing of the evidence is not essential when the evidence has been taken by shorthand reporters of the committee.

The Committee clerk has charge of all the evidence and papers before the Committee.

308. To tamper with a witness in regard to the evidence to be given before either House or any committee of either House or to endeavour directly or indirectly, to deter or hinder any person from appearing or giving evidence is a breach of privilege. A resolution to this effect was passed by the House of Commons on 21 February, 1700, and has been regularly renewed in every succeeding session, and in numerous instances persons have been punished for offences of this kind. Corruption or intimidation, though a usual, is not an essential ingredient in this offence. It is equally a breach of privilege to attempt by persuasion or solicitations of any kind to induce a witness not to attend, or to withhold evidence or to give false evidence. This matter was considered in 1935 by a committee of the Commons (United Kingdom) who reported that, in their opinion, it was a breach of privilege to give any advice to a witness which took the form of pressure or of interference with his freedom to form and express his own opinions honestly in the light of all the facts known to

him, and the House resolved that it agreed with the Committee in their report. H. C. 84, p. VII (1934-35); C. J. (1934-35) 294.

309. The privilege of freedom from arrest and molestation is attached to all witnesses summoned to attend before either House or Parliament, or before parliamentary Committees, and to others in personal attendance upon the business of Parliament, in coming, staying and returning. M. 128.

Every witness attending before the House or any committee thereof may claim the protection of the House in respect of the evidence he is called upon to give and also ask leave to be assisted by counsel. B., 3rd ed., 157, 165, 166, 167; M., 11th ed., 25-126.

310. If a witness whose attendance is desired by the House or by a committee should be in the custody of the keeper or any prison or sheriff, the Speaker is ordered to issue his warrant, which is personally served upon the keeper or sheriff by a messenger of the House, and by which he is directed to bring the witness in his custody to be examined. M. 578.

If a witness should be in custody, by order of the other House, his attendance is secured by a message, desiring that he may attend in the custory of the Black Rod or the Sergeant-at-Arms, as the case may be, to be examined. M. 578.

311. If a witness should refuse to appear on receiving the order of the Chairman, his conduct will be reported to the House and an order immediately made for his attendance at the bar or before the committee. If he would still refuse to obey, he may be "ordered to be sent for in custody of the Sergeant-at-Arms", and the Speaker be ordered to issue his warrant accordingly, or he may be declared guilty of a breach of privilege and ordered to be taken in the custody of the sergeant. Similar proceedings are taken when a witness refuses to answer questions.

312. Whenever the evidence of a Senator is required before a Committee of the Commons, it is usual for the Chairman to move in the House that a message be sent to the Senate requesting their Honours to give leave to . . . . . ., one of their members, to attend and give evidence before the Select Committee, etc.

A motion that a message be sent to the Senate requesting leave for a Senator to give evidence before a Select Committee of the House of Commons cannot be entertained until a report thereon has been presented by the Committee. C.J., Vol. 59, p. 243.

313. In case the evidence of a member of the Commons is required before a Committee of the House, it is customary for the Chairman to request him to come, and not to address or summon him in the ordinary form.

314. Statements made to Parliament in the course of its proceedings are not actionable by law. (M. 133.) While the House punishes misconduct with severity, it is careful to protect witnesses from the consequences of their evidence given by order of the House; and on extraordinary occasions, where further protection has been deemed necessary to elicit full disclosures, Acts have been passed to indemnify witnesses from all the penal consequences of their testimony. M. 583.

(2) A witness has been allowed the assistance of counsel when his evidence may tend to criminate himself. Parl. Deb. 1873, p. 38. Journal, 70; Can. Com. J. 1887, 188-189.

315. Both Houses will treat the bringing of legal proceedings against any person on account of any evidence which he may have given in the course of any proceedings in the House or before one of its committees as a breach of privilege.

316. No witnesses shall be paid unless the certificate mentioned in the first section of Standing Order 69 shall have been first filed with the Chairman of the committee by a member thereof.

317. In case a committee requires its evidence to be printed for its own use in the course of an enquiry, it will make a report requesting that this be done. Formerly it had to apply to the Joint Committee on Printing, but this practice had to be abandoned in view of the fact that the Printing Committee consists of senators as well as members and the matter is one which concerns the Commons only.

318. (1) When the Speaker has called for reports of committees, during the progress of routine business, the Chairman, or in his absence, a member of the committee, will rise in his place, and having stated the nature of his report, will send it to the Table where it will be read by the Clerk Assistant. If it is long, the House generally dispenses with the reading, as all reports are printed in the Votes and Proceedings for the information of members as soon as they are laid before the House. The reports which are records of the House should, under section 133 of the B.N.A. Act be drafted in English and French like all other proceedings of the two Houses.

(2) It is the opinion of the committee, as a committee, not that of the individual members, which is required by the House, and, failing unanimity, the conclusions agreed to by the majority are the conclusions of the committee. No signatures may, therefore, be attached to the report for the purpose of showing any difference of opinion in the committee or the absence thereof; nor may the report be accompanied by any counter-statement, memorandum of dissent, or protest from any dissenting or non-consenting member or members; nor ought the committee to include in its report any observations which the minority or any individual member desires to offer, but which are not subscribed to by the majority; nor may a draft report which has been submitted to the committee, but has not been entertained by it be printed as an appendix to the report. If a member disagrees to certain paragraphs in the report, or to the entire report, he can record his disapproval by dividing the committee against those paragraphs to which he objects, or against the entire report, as the circumstances of the case require; and can put on record his observations and conclusions, as opposed to those of the majority, by proposing an alternative draft report or moving an amendment to the question for reading the draft report a second time. May 15th, 617.

(3) A member will not be permitted in presenting a

report to make any remarks on the subject-matter; he can only properly do so on a motion in reference to the report.

319. The report of the committee must be signed by the Chairman. No other signature should be affixed to a report for the purpose of showing any division of opinion in the committee, nor can it be accompanied by any counter statement from the minority, as such is unknown in British parliamentary practice. The Chairman only signs by way of authentication on behalf of the committee. He should sign even if he dissented with the majority of the committee. No minority report should be made to the House. Cush. 1935, 1937.

320. (1) It is the general custom not to report the evidence until the enquiry has been completed, and the report is ready to be presented; but where an intermediate publication of the evidence, or more than one report, has been thought desirable, the necessary power has been conferred upon the committee on its appointment, or the House has granted leave subsequently, on the application of the Chairman, for the committee to "report its opinions or observations, from time to time", or to "report minutes of evidence" only, from time to time. In such cases, the committee is to exercise its discretion as to reporting the evidence from day to day, or otherwise; and as to the best division of the evidence for the purpose of reporting it to the House. M. 15th ed., 619.

(2) When a committee have not completed their enquiries before the end of the session, they report the fact to the House together with any evidence which they may have taken. In their report, they usually recommend the reappointment of the committee in the next session. This course has usually been followed, and the evidence taken in the previous session has been referred to the newly appointed committee. M. 486, 15th ed., pp. 621-2.

(3) As to the report of a committee presented during a previous session, motion must first be made that it be considered during the current session, and, if such a motion is carried, the House may appoint a day for consideration of the report.

A report may be adopted only in part or an amendment imposing a condition to the motion for concurrence may be moved.

(4) A committee cannot report the evidence taken before a similar committee in a previous session, except as a paper in the appendix, unless it receives authority from the House to consider it.

(5) No act done at any committee should be divulged before the same be reported to the House. (Clarendon 1826 ed. II, p. 159). Upon this principle the Commons, on April 21, 1837, resolved "That the evidence taken by any select committee of this House, and the documents presented to such committee and which have not been reported to the House, ought not to be published by any member of such committee or by any other person. C.J. 1837, p. 282. Where the public is admitted this rule is usually not enforced. Parl. Deb. 1875, 223, cc. 787, 1114. The publication of proceedings of committees conducted with closed doors or of reports of committees before they are available to Members will, however, constitute a breach of privilege. C.J., 1899, 237.

(6) Where a Committee is unable to agree upon a report, it may make a special report to that effect, together with the minutes of the evidence taken before it or merely report the minutes of the evidence taken before it to the House without any observations or expression of opinion. M. 15th ed., 618.

321. If it be expedient the House appoint the consideration of the report of a Select Committee for a future day, by a motion made on the presentation of the report, or by a subsequent motion for that purpose. M. 488.

The House may appoint the consideration of the report of a Select Committee for a future day by giving forty-eight hours' notice. It will then be taken up when "motions" are called at the commencement of the sitting.

322. When the motion to concur is proposed the report may be referred back to the committee for further consideration or with instruction to amend it in any respect. It is not competent for a committee to reconsider and reverse its own decision, but if the House resolves that such reconsideration is necessary, the correct procedure is for the House to give the committee instructions which will enable it to consider the whole question again. See B. 480.

An amendment to recommit a report of a Standing Committee with instructions to amend it so as to recommend that at the next session of Parliament the committee be empowered to consider new matters related to the subject-matter referred to the committee, was ruled out on the ground that the House cannot instruct a committee to take certain matters in consideration at a future Session of Parliament as references made by the House to a committee lapse at prorogation. (Can. C.J., Vol. 72, pp. 473-4.)

323. (1) A committee report may be ruled out of order though it has been received by the House, and a motion to concur therein cannot then be entertained. (Can. C.J., Vol. 8, p. 216.)

(2) A report from a committee cannot be amended by the House, but it must be referred back to the committee. (Can. C.J., Vol. 61, pp. 439-440.)

(3) On the consideration of a report, motions have been made expressing the agreement or the disagreement of the House therewith, or motions are made which are founded upon, or which enforce the resolutions of the Committee. M. 488.

(4) A committee has been instructed to report the evidence of a witness, although given when its quorum was incomplete. M. 473, note 9.

324. (1) Until the report and evidence have been laid upon the Table, it is irregular to refer to them in debate, or to put questions in reference to the proceedings of the committee.

(2) When the evidence is before the House it may be debated at length, but members will not be permitted to discuss the conduct or language of members of the committee, except so far as it appears on the record.

(3) If a document has been formally laid before a committee of the House, and entered upon its minutes, it is in the possession of the House, and it is a breach of privilege for any person or department to withhold it. A member who claims the production of papers for his own justification is not entitled to them as a matter of privilege, but the question is one which the House must determine for itself on motion. Eng. Hans., Vol. 114 3s., p. 373.

325. (1) When the report does not contain any resolutions, recommendations or other propositions for consideration of the House, it does not appear that any further proceedings in reference to it as a report are necessary. Every session, Select Committees make reports of this description, containing a statement of facts, or of the evidence on the subject of enquiry; but as they do not contain any proposition which can be agreed to by the House, they are simply printed for the information of the members.

(2) Concurrence in reports from Select Committees is, in non-controversial cases, moved when motions are called by the Speaker during routine business. If it be expedient, the House will appoint the consideration of a report for a future day. By a motion made for that purpose in the British House, the report of a committee presented during a previous session has been taken into consideration. Eng. J. 86, p. 161.

(3) Under S.O. 41 notice must be given for the motion for concurrence in reports of committees, said concurrence being a resolution of the House. If such a motion is brought up without notice, it can only be allowed to pass by unanimous consent.

(4) When a motion is made for concurrence in a Select Committee Report, it is competent for the House to adopt it, reject it, refer it back to the committee or decide that consideration of the report will take place "this day six months". (Can. C.J., Vol. 55, pp. 293-4.)

326. The report of a Standing Committee should be considered final only when it is adopted by the House, because, until then, the House can refer it back to the committee with instruction to amend it in any particular. (Can. C.J., Vol. 65, p. 476.)

327. When the attendance of a witness is desired, to be examined at the bar, by the House of Commons, or by a Committee of the whole House, he is simply ordered to attend at a stated time; and the order, signed by the Clerk of the House, is served upon him personally, but if he is at a distance, it is forwarded to him by the Sergeant-at-Arms, either by post, or, in special cases, by a messenger. If the witness does not obey the order for his attendance, he may be ordered to be sent for in custody of the Sergeant-at-Arms, and Mr. Speaker may be ordered to issue his warrant accordingly; or he may be declared guilty of a breach of privilege, and ordered to be taken in the custody of the Sergeant. M. 577-8.

328. (1) The Senate or the House of commons may administer an oath to any witness examined at the bar of the Senate or of the said House. R.S.C., ch. 10, s. 23.

Where any witness to be examined under oath conscientiously objects to take an oath, he may make his solemn affirmation or declaration.

Any oath or affirmation may be administered by: (a) the Speaker of the Senate or of the House of Commons; (b) the Chairman of any committee of the Senate or House of Commons; (c) or such person or persons as may from time to time be appointed for that purpose, either by the Speaker of the Senate or by the Speaker of the House of Commons, or by any standing or other order of the Senate or House of Commons respectively. do. 30.

When a witness is examined by the House of Commons, or by a committee of the whole House, he attends at the bar, which is then kept down. If the witness be not in custody, the mace remains upon the table . . . When a witness is in the custody of the Sergeant-at-Arms, or is brought from any prison in custody, it is the usual, but not the constant, practice for the Sergeant to stand with the mace at the bar. M. 13, 584-5.

(2) Members of the House are always examined in their places. M. 585. Under a resolution passed in early years, members "ought not to be brought to the bar unless they are accused of any crime".

329. According to the strict rule of the House, the Speaker should put all questions to the witness at the bar, and members should only suggest to him the questions which they desire to be put; but, for the sake of avoiding the repetition of each question, members are usually permitted to address their questions directly to the witness, which, however, are still supposed to be put through the Speaker. If a question be objected to, or if any difference should arise in regard to the examination of a witness, he is directed by the Speaker to withdraw before a motion is made or the matter is considered. M. 584.

330. In Committee of the whole House, any member may put questions directly to the witness. M. 585.

Where counsel are engaged (before the House or in Committee of the Whole) the examination of witnesses is mainly conducted by them, subject to the interposition of questions by members, and where any question arises in regard to the examination, the parties, counsel and witnesses are directed to withdraw. M. 585.

APPENDIX F

The terms and scope of "Henry VIII" clauses are many and varied. Perhaps the best examples of regulation-making clauses are contained in the "Government Department Statutes", for example:

THE DEPARTMENT OF AGRICULTURE ACT, Chapter 94, R. S. A. 1970

—Section 6 (1) - the Minister may establish such Boards, Committees, or Councils as he considers necessary . . .

—Section 7 (1) - the Lieutenant Governor-in-Council may make regulations providing for the guarantees by the Government of principle amounts of loans made for the purpose of providing financial assistance for . . .

—Section 8 (1) - the Lieutenant Governor-in-Council may make regulations providing for . . . emergency loan guarantees . . .

THE DEPARTMENT OF EDUCATION ACT, Chapter 96, R. S. A. 1970

—Section 7 (1) - the Minister may make regulations . . . apportionment and distribution of all money appropriated . . . certification of teachers . . . definition of education programmes in Alberta . . .

THE DEPARTMENT OF LABOUR ACT, Chapter 100, R. S. A. 1970

—Section 7 - the Lieutenant Governor-in-Council may make such regulations not inconsistent with this Act as he deems necessary for carrying out the provisions of this Act and for the efficient administration thereof.

THE DEPARTMENT OF PUBLIC WORKS ACT, Chapter 105, R. S. A. 1970

—Section 12 (1) - the Lieutenant Governor-in-Council may make regulations, either general in application or special as applied to any particular case, (a) permitting, restricting, or prohibiting the use by the public or by any persons . . . of any path, land, . . . (specific and subjectively defined matters contained in this section).

THE DEPARTMENT OF ADVANCED EDUCATION ACT, Chapter 28, R. S. A. 1972

—Section 5 - the Minister may make regulations . . . for the appointment and distribution of all monies appropriated by the Legislature . . . establishment of institutions . . . (No general clause).

THE DEPARTMENT OF MANPOWER AND LABOUR ACT, Chapter 35, 1972

—Section 6 (1) - the Lieutenant Governor-in-Council may make regulations . . . governing the installation . . . providing for the issuance of certificates . . . prescribing fees . . . providing for any other matter or procedure in connection with the administration of the regulations . . .

THE DEPARTMENT OF ENVIRONMENT ACT, Chapter 24, 1971

—Section 17 - the Lieutenant Governor-in-Council may make regulations . . . prohibiting . . . requiring persons owning land . . . prescribing the duties of persons conducting sand removal operations . . . generally providing for any procedure or matter incidental to the carrying out of the provisions of this Act or any regulations under this Act.

The following Department Acts do not contain any regulation — making powers:

THE DEPARTMENT OF THE ATTORNEY-GENERAL ACT,

THE DEPARTMENT OF CONSUMER AFFAIRS ACT,

THE DEPARTMENT OF CULTURE, YOUTH AND RECREATION ACT,

THE DEPARTMENT OF FEDERAL AND INTER-GOVERNMENTAL AFFAIRS ACT,

THE DEPARTMENT OF HEALTH AND SOCIAL DEVELOPMENT ACT,

THE DEPARTMENT OF INDUSTRY AND COMMERCE ACT,

THE DEPARTMENT OF LANDS AND FORESTS ACT,

THE DEPARTMENT OF MINES AND MINERALS ACT,

THE DEPARTMENT OF MUNICIPAL AFFAIRS ACT,

THE DEPARTMENT OF THE PROVINCIAL SECRETARY ACT.

Generally, in "government department Acts" the power to make regulations is seldom given. However, throughout the Act the Minister is given various powers to make Ministerial Orders or Orders-in-Council or policy directives governing the operations of this department. The empowering clauses for regulation-making in these Acts are quite well drafted as they are very recent Acts. As a Rule of Thumb, these Acts tend towards the subjective definition of the pwoer to make regulations; it being commonly accepted that once subjective definition of the power to make regulations is made, the general clause will receive limited use. However, all the statutes of Alberta are under the administration of one or another of the government departments and it is the general regulation-making power contained in these statutes which often give the Minister in charge the power to make regulations for any matter he deems fit.

The following excerpts from the Revised Statutes of Alberta, 1970 and the Statutes of Alberta, 1971, 1972, and 1973 were collected on a random basis with no particular regard for the terms of the regulation-making clause; the intent of this type of review is to gather a broad sampling of such empowering clauses in the limited time available.

THE ALBERTA EDUCATION COMMUNICATTIONS CORPORATION ACT, Chapter 3. S.A., 1973

——Section 6 . . . powers of the corporation . . . operate one or more broadcasting undertakings

. . . enter into contracts for programming . . . make arrangements or enter into agreements with any person for the use of any rights, privileges or concessions of the corporation.

—Section 7 (1) — the corporation may make by-laws regulating its proceedings and generally, for the conduct and management of business affairs of the corporation.

(2) — no by-law of the corporation is valid unless approved by the provincial authority.

(3) — the Regulations Act does not apply to the by-laws of the corporation.

THE ALBERTA HERITAGE ACT, Chapter 5, 1973

—Section 6 (2) — the Lieutenant Governor-in-Council may make regulations (a) prescribing the purposes for which grants may be made under this Section, and (b) limiting the maximum amount payable as grant.

THE ALBERTA LABOUR ACT, Chapter 33, S. A. 1973

—Section 60 (2) — the Lieutenant Governor-in-Council may make regulations . . . providing for the appointment for a Work Jurisdictional Commitee . . . providing for such other matters as are necessary or desirable, either generally or with regard to a special case where the purpose of settling differences or disagreements.
—Section 167 (1) — the Lieutenant Governor-in-Council may make regulations . . . providing that employers shall provide . . . providing for any other matter concerning the welfare of employees.
—Section 177 — regulations of the Lieutenant Governor-in-Council made pursuant to Sections 36 and 35 of the former Act shall be deemed to have been made under this Act.

THE LAND SURFACE AND RECLAMATION ACT, Chapter 34, S. A. 1973

—Section 11 — the Lieutenant Governor-in-Council may make regulation —

(a) providing for any matter necessary to carry out the provisions of this Act or to meet cases that may arise for which no provision is made by this Act;

(b) prescribing the tarriff of fees payable . . .

(c) Providing that contravention of any regulation under this Act constitutes an offense;

(d) providing for penalties by way of fine or imprisonment, or both, for breach of the regulations;

(e) governing the manner in which geophysical operations may be conducted on land or water covered areas.

—Section 12 (1) — the Lieutenant Governor-in-Council may make regulations regarding the financial assistance . . .

THE POLICE ACT, Chapter 44, S. A. 1973

—Section 44 (1) — the Attorney General may make regulations . . . prescribing minimum number of members of police forces . . . prescribing minimum requirements respecting clothing . . . prescribing basic courses of training . . . prescribing the records . . . prescribing the method of accounting for fees . . .

(2) — any regulation made under the authority of subsection (1) may be general or particular in application.

THE BEVERAGE CONTAINER ACT, — BEVERAGE CONTAINER AMENDMENT ACT, Chapter 16, S. A. 1972.

— Section 5 — the Lieutenant Governor-in-Council may make regulations:

(a) exempting . . . any beverage container . . . any beverage container . . .

(b) limiting number of empty containers . . .

(c) governing the disposal of empty containers;

(d) prescribing the fund payable . . .

(e) requiring the establishment and governing the operation of depots . . .

(f) defining the words consumption or use of the premises on which it was purchased . . .

(g) authorizing the Minister to prohibit the sale from any beverage vending machine . . .

(h) concerning such other matters as are necessary for the administration of this Act.

THE CLEAN WATER ACT, Chapter 17, S.A. 1971

— Section 3 (1) — the Minister may make regulations . . . prescribing water contaminants . . . prescribing methods for determing concentration . . . prescribing maximum temperature . . . prescribing calculated water contaminant standards . . . (an exhaustive list of subjective powers available to determine standards of clean water).

— Section 5 (1) — the Lieutenant Governor-in-Council may by regulation designate any Officer of the Crown or any government agency as the person who shall exercise the same power and authority as the power and authority as the power of the Director of Pollution Control . . .

—Section 10 — the Lieutenant Governor-in-Council may make regulations?

(1) governing applications for the issuance of . . . permits . . . licenses

(1.1) prescribing terms and conditions attached to all permits and licenses of any class . . . (an exhaustive subjective list of regulations making powers with no general empowering clause other than . . .

— Section 9.1 (8) — whereby the Minister may make regulations prescribing substances and classes of substances . . .

THE CLEAN AIR ACT, Chapter 16, 1971, & Chapter 19, 1972

—Section 10 — the Lieutenant Governor-in-Council may make regulations . . . (the regulation-making power is set up in very definite subjective terms)...

—(n) — generally, the prevention control or prohibition of air pollution and the regulation of sources of air pollution.

THE WILDLIFE ACT, Chapter 391, R. S. A. 1970

— Section 11 — the Lieutenant Governor-in-Council may make regulations providing —

(1) for the designation of any species of vertebrae as wildlife . . . also, noting section 38 — generally with regard to —

(i) any matter or thing the doing of which is permitted by this Act,

or

(ii) any case that arises and for which no specific provisions is made in this Act, for the purposes of carrying out the provisions of this Act according to the true intent thereof.

THE SECURITIES ACT, Chapter 333, R. S. A. 1970

— Section 144 — the Lieutenant Governor-in-Council may make regulations —

(a) prescribing the categories for Companies and the manner of allocating companies to categories . . .

(b) prescribing requirements respecting applications for registration . . .

(c) regulating the listing and trading of securities . . . etc. . . .

(d) respecting any manner necessary or advisable to carry out effectively the intent and purpose of this Act. ·

THE MUNICIPAL GOVERNMENT ACT, Chapter 246, R. S. A. 1970

— Section 11 (1) — upon the application of a Municipality only, the Lieutenant Governor-in-Council may make regulations providing for any matter not provided for or insufficiently provided for in this Act but any regulation so made ceases to have any effect after the last day of the next ensuing session of the Legislature.

— (2) — a Minister may make regulations prescribing forms to be used under this Act.

THE HIGHWAY TRAFFIC ACT, Chapter 169, R. S. A. 1970

— Section 227 — the Lieutenant Governor-in-Council may make such regulations as are necessary to carry out this Act accoring to its intent or to meet cases that arise and for which no provision is made by this Act, and without in any way restricting the generality of the foregoing, may make regulations . . . (prescribing forms, times, design and position of lights, etc.)

— Subsection 22 — prescribing generally as to any other matter or thing that is deemed necessary for the better carrying out of the intention of this Act and the doing of which is permitted by this Act.

THE WORKMENS COMPENSATION ACT, Chapter 397, R. S. A. 1970

— Section 12 (1) — the Board may make such regulations and prescribe such forms as are deemed expedient for the carrying out of the provisions of this Act and as not inconsistent therewith.

— (2) — an order, ruling or direction of the Board made pursuant to Section 13 (Schedules of Industires), 14 (Differentials in Rates), 20 (Applications to be brought under the Act), Section 71, (Assessment Procedure), is not a regulation within the meaning of the Regulations Act.

THE SOCIAL DEVELOPMENT ACT, Chapter 345, R. S. A. 1970

— Section 25 — the Lieutenant Governor-in-Council may make regulations respecting any matter deemed necessary or advisable to carry out effectively the purposes of this Act.

THE SCHOOL ACT, Chapter 329, R. S. A. 1970

— Section 12 — (i) — in addition to his other powers specified in this Act, the Minister may make regulations

(a) governing the use of English as a language of instruction . . . French . . . respecting the inspection of pupils, teachers, schools, . . .

— (2) — the Minister may prescribe

(a) (i) courses of study or pupil programs or both, and

(ii) instructional materials, and

(b) approve any course of study or pupil program submitted to him by a board, but no course of study or pupil program shall be initiated by a board or teacher without the prior approval of the Minister in writing.

and The Regulations Act does not apply to anything done by the Minister or a board under this subsection. (Note: There is no general clause in this Act.)

THE FOREST ACT, Chapter 37, 1971

— Section 4 — the Lieutenant Governor-in-Council may make regulations —

(a) governing procedures for the acquiring of permits and licenses . . .

(b) governing circumstances by which permits, licenses . . . may be cancelled, varied, suspended or reinstated . . . etc. (This section contains only specifically listed subject matter for which regulations may be made.)

— Section 5 — the Lieutenant Governor-in-Council may make regulations —

(a) governing logging methods and wood utili-

zation standards . . . etc. (Only specific matters for which regulations may be made are listed and no general clause is contained.)

THE PROVINCIAL PARKS ACT, Chapter 288, R. S. A. 1970

— Section 9 — the Lieutenant Governor-in-Council may make regulations with respect to parks, historical sites, natural areas and wilderness areas . . . a list of specific subject matter for which regulations may be made follows. (There is no general clause.)

THE HEALTH INSURANCE PREMIUMS ACT, Chapter 167, R. S. A. 1970

— Section 3 — the Lieutenant Governor-in-Council may make regulations . . . (there follows a specific list of matters for which regulations may be made and then a general clause) . . .

(p) generally, providing for any other matter considered necessary for the purpose of administration and operation of this Act or to meet cases that may arise for which no provision is made in this Act.

THE ALBERTA HEALTH CARE INSURANCE ACT, Chapter 166, R. S. A. 1970

— Section 39 — the Lieutenant Governor-in-Council may make regulations —

(a) defining dependant for the purposes of this plan . . . etc. (This section lists a number of other specific matters for which regulations may be made) . . .

(f) generally, providing for any other matter considered necessary for the purpose of administration and operation of this Act or to meet cases that may arise and for which no provision is made by this Act.

THE PLANNING ACT, Chapter 276, R. S. A. 1970

— Section 6 . . . The Board (the Provincial Planning Board) may . . . make regulations prescribing forms to be used and the procedures to be followed in carrying out the intent of this part . . . the Board shall advise the Lieutenant Governor-in-Council with respect to regulations which are made under this Act.

— Section 14 — (3) the Lieutenant Governor - in-Council, upon the advice of the Provincial Planning Board, may make regulations to be known as the Regional Planning Commission Regulations for the purpose of —

(a) governing the operation of a Regional Planning Commission . . .

— Section 30 — the Lieutenant Governor-in-Council, upon advice of the Board, may make regulations relating to . . . form of replotting schemes.

Section 17 — (1) the Lieutenant Governor-in-Council may make regulations to be known as the Subdivision and Transfer Regulations, for the purpose of controlling, regulating and governing the subdivision of land.

— (2) — the regulations shall prescribe

(a) the procedure to be followed by applicants for the approval of the proposed subdivisions and by the approving authorities,

(b) rules governing —

(i) the laying out and the dimensions of lots, blocks, and other units of land,

(ii) the laying out in minimum widths, lengths and maximum grades of streets, lanes and roadways,

and

(iii) the locations, areas and shapes of reserves,

(c) locations where subdivisions intended for specific types of development and use are permitted or prohibited.

(d) the forms to be used, the approvals to be obtained and the fees to be paid by persons applying for the approval of a proposed subdivision, and

(e) **such other rules and requirements** not inconsistent with this Act and as may be necessary to carry out the intent of this part.

— Section 58 — the Lieutenant Governor-in-Council upon the advise of the Board, may make regulations to be known as the Zoning Caveat Regulations . . . setting out a list of zones . . . Describing, prohibiting and regulating as to each zone . . . (no general provision).

— Section 115 (1) — the Lieutenant Governor-in-Council upon the advice of the Board may make regulations prescribing the manner and form in which development schemes shall be prepared.

— Section 154 (1) — upon the application of a municipality only, the Lieutenant Governor-in-Council may make regulatons providing for any matter not provided for or insufficiently provided for in this Act, and any regulation so made ceases to have any effect after the last day of the next ensuing session of the Legislature.

(2) — the Minister may make regulations prescribing forms to be used under this Act.

The proceeding was a random selection of statutes and the regulation-making empowering clauses contained therein. This sampling was intended to be representative of the statutes in Alberta. The Committee should note that some statutes confine the terms of regulation-making empowering clauses to specific matters and leave absolutely no general power to the Minister or the Lieutenant Governor-in-Council. However, by far the majority of statutes contain a brief listing of specific matters for which regulations may be made and then a general provision allowing the Minister or the Lieutenant Governor-in-Council to make regulations for any matter which he deems fit within the purposes and intent of the Act of which he is the administrator.

APPENDIX G

ACTS OF GREAT BRITAIN AND CANADA RELATING TO THE PUBLICATION & FILING OF STATUTORY INSTRUMENTS & REGULATIONS.

CHAPTER 66.

An Act for the Publication of Statutory Rules.

[21st December 1893.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1.—(1.) At least forty days before making any statutory rules to which this section applies, notice of the proposal to make the rules, and of the place where copies of the draft rules may be obtained, shall be published in the London Gazette.

(2.) During those forty days any public body may obtain copies of such draft rules on payment of not exceeding threepence per folio, and any representations or suggestions made in writing by a public body interested to the authority proposing to make the rules shall be taken into consideration by that authority before finally settling the rules; and on the expiration of those forty days the rules may be made by the rule-making authority, either as originally drawn or as amended by such authority, and shall come into operation forthwith or at such time as may be prescribed in the rules.

(3.) Any enactment which provides that any statutory rules to which this section applies shall not come into operation for a specified period after they are made is hereby repealed, but this repeal shall not affect section thirty-seven of the Interpretation Act, 1889.

(4.) The statutory rules to which this section applies are those made in pursuance of any Act of Parliament which directs the statutory rules to be laid before Parliament, but do not include any statutory rules if the same or a draft thereof are required to be laid before Parliament for any period before the rules come into operation, nor do they include rules made by the Local Government Board for England or Ireland, the Board of Trade, or the Revenue Departments, or by or for the purposes of the Post Office; nor rules made by the Board of Agriculture under the Contagious Diseases (Animals) Act, 1878, and the Acts amending the same.

(5.) This section shall not apply to Scotland.

(6.) In the case of any rules which it is proposed shall extend to Ireland, publication in the Dublin Gazette of the notice required by this section shall be requisite in addition to, or, if they extend to Ireland only, in lieu of, publication in the London Gazette.

2. Where a rule-making authority certifies that on account of urgency or any special reason any rule should come into immediate operation, it shall be lawful for such authority to make any such rules to come into operation forthwith as provisional rules, but such provisional rules shall only continue in force until rules have been made in accordance with the foregoing provisions of this Act.

3.—(1.) All statutory rules made after the thirty-first day of December next after the passing of this Act shall forthwith after they are made be sent to the Queen's printer of Acts of Parliament, and shall, in accordance with regulations made by the Treasury, with the concurrence of the Lord Chancellor and the Speaker of the House of Commons, be numbered, and (save as provided by the regulations) printed, and sold by him.

(2.) Any statutory rules may, without prejudice to any other mode of citation, be cited by the number so given as above mentioned and the calendar year.

(3.) Where any statutory rules are required by any Act to be published or notified in the London, Edinburgh, or Dublin Gazette, a notice in the Gazette of the rules having been made, and of the place where copies of them can be purchased, shall be sufficient compliance with the said requirement.

(4.) Regulations under this section may provide for the different treatment of statutory rules which are of the nature of public Acts, and of those which are of the nature of local and personal or private Acts; and may determine the classes of cases in which the exercise of a statutory power by any rule-making authority constitutes or does not

constitute the making of a statutory rule within the meaning of this section, and may provide for the exemption from this section of any such classes.

(5.) In the making of such regulations, each Government department concerned shall be consulted, and due regard had to the views of that department.

4. In this Act—

"Statutory rules" means rules, regulations, or byelaws made under any Act of Parliament which (*a*) relate to any court in the United Kingdom, or to the procedure, practice, costs, or fees therein, or to any fees or matters applying generally throughout England, Scotland, or Ireland; or (*b*) are made by Her Majesty in Council, the Judicial Committee, the Treasury, the Lord Chancellor of Great Britain, or the Lord Lieutenant or the Lord Chancellor of Ireland, or a Secretary of State, the Admiralty, the Board of Trade, the Local Government Board for England or Ireland, the Chief Secretary for Ireland, or any other Government Department.

"Rule-making authority" includes every authority authorised to make any statutory rules.

5. This Act may be cited as the Rules Publication Act, 1893.

CHAPTER 36.

Statutory Instruments Act, 1946.

ARRANGEMENT OF SECTIONS.

An Act to repeal the Rules Publication Act, 1893, and to make further provision as to the instruments by which statutory powers to make orders, rules, regulations and other subordinate legislation are exercised.

[26th March 1946.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: —

1. — (1) Where by this Act or any Act passed after the commencement of this Act power to make, confirm or approve orders, rules, regulations or other subordinate legislation is conferred on His Majesty in Council or on any Minister of the Crown then, if the power is expressed —

(*a*) in the case of a power conferred on His Majesty, to be exercisable by Order in Council;

(*b*) in the case of a power conferred on a Minister of the Crown, to be exercisable by statutory instrument,

any document by which that power is exercised shall be known as a "statutory instrument" and the provisions of this Act shall apply thereto accordingly.

(2) Where by any Act passed before the commencement of this Act power to make statutory rules within the meaning of the Rules Publication Act, 1893, was conferred on any rule-making authority within the meaning of that Act, any document by which that power is exercised after the commencement of this Act shall, save as is otherwise provided by regulations made under this Act, be known as a "statutory instrument" and the provisions of this Act shall apply thereto accordingly.

2.—(1) Immediately after the making of any statutory instrument, it shall be sent to the King's printer of Acts of Parliament and numbered in accordance with regulations made under this Act, and except in such cases as may be provided by any Act passed after the commencement of this Act or prescribed by regulations made under this Act, copies thereof shall as soon as possible be printed and sold by the King's printer of Acts of Parliament.

(2) Any statutory instrument may, without prejudice to any other mode of citation, be cited by the number given to it in accordance with the provisions of this section, and the calendar year.

3.—(1) Regulations made for the purposes of this Act shall make provision for the publication by His Majesty's Stationery Office of lists showing the date upon which every statutory instrument printed and sold by the King's printer of Acts of Parliament was first issued by that office; and in any legal proceedings a copy of any list so published purporting to bear the imprint of the King's printer shall be received in evidence as a true copy, and an entry therein shall be conclusive evidence of the date on which any statutory instrument was first issued by His Majesty's Stationery Office.

(2.) In any proceedings against any person for an offence consisting of a contravention of any such statutory instrument, it shall be a defence to prove that the instrument had not been issued by His Majesty's Stationery Office at the date of the alleged contravention unless it is proved that at that date reasonable steps had been taken for the purpose of bringing the purport of the instrument to the notice of the public, or of persons likely to be affected by it, or of the person charged.

(3) Save as therein otherwise expressly provided, nothing in this section shall affect any enactment or rule of law relating to the time at which any statutory instrument comes into operation.

4.—(1.) Where by this Act or any Act passed after the commencement of this Act any statutory instrument is required to be laid before Parliament after being made, a copy of the instrument shall be laid before each House of Parliament and, subject as hereinafter provided, shall be so laid before the instrument comes into operation:

Provided that if it is essential that any such instrument should come into operation before copies thereof can be so laid as aforesaid, the instrument may be made so as to come into operation before it has been so laid; and where any statutory instrument comes into operation before it is laid before Parliament, notification shall forthwith be sent to the Lord Chancellor and to the Speaker of the House of Commons drawing attention to the fact that copies of the instrument have yet to be laid before Parliament and explaining why such copies were not so laid before the instrument came into operation.

(2) Every copy of any such statutory instrument sold by the King's printer of Acts of Parliament shall bear on the face thereof—

(*a*) a statement showing the date on which the statutory instrument came or will come into operation; and

(*b*) either a statement showing the date on which copies thereof were laid before Parliament or a statement that such copies are to be laid before Parliament.

(3.) Where any Act passed before the date of the commencement of this Act contains provisions requiring that any Order in Council or other document made in exercise of any power conferred by that or any other Act be laid before Parliament after being made, any statutory instrument made in exercise of that power shall by virtue of this Act be laid before Parliament and the foregoing provisions of this section shall apply thereto accordingly in substitution for any such provisions as aforesaid contained in the Act passed before the said date.

5.—(1.) Where by this Act or any Act passed after the commencement of this Act, it is provided that any statutory instrument shall be subject to annulment in pursuance of resolution of either House of Parliament, the instrument shall be laid before Parliament after being made and the provisions of the last foregoing section shall apply thereto accordingly, and if either House, within the period of forty days beginning with the day on which a copy thereof is laid before it, resolves that an Address be presented to His Majesty praying that the instrument be annulled, no further proceedings shall be taken thereunder after the date of the resolution, and His Majesty may by Order in Council revoke the instrument, so, however, that any such resolution and revocation shall be without prejudice to the validity of anything previously done under the instrument or to the making of a new statutory instrument.

(2.) Where any Act passed before the date of the commencement of this Act contains provisions requiring that any Order in Council or other document made in exercise of any power conferred by that or any other Act shall be laid before Parliament after being made and shall cease to be in force or may be annulled, as the case may be, if within a specified period either House presents an address to His Majesty or passes a resolution to that effect, then, subject to the provisions of any Order in Council made under this Act, any statutory instrument made in exercise of the said power shall by virtue of this Act be subject to annulment in pursuance of a resolution of either House of Parliament and the provisions of the last foregoing subsection shall apply thereto accordingly in substitution for any such provisions as aforesaid contained in the Act passed before the said date.

6.—(1.) Where by this Act or any Act passed after the commencement of this Act it is provided that a draft of any statutory instrument shall be laid before Parliament, but the Act does not prohibit the making of the instrument without the approval of Parliament, then, in the case of an Order in Council the draft shall not be submitted to His Majesty in Council, and in any other case the statutory instrument shall not be made, until after the expiration of a period of forty days beginning with the day on which a copy of the draft is laid before each House of Parliament, or, if such copies are laid on different days, with the later of the two days, and if within that period either House resolves that the draft be not submitted to His Majesty or that the statutory instrument be not made, as the case may be, no further proceedings shall be taken thereon, but without prejudice to the laying before Parliament of a new draft.

(2.) Where any Act passed before the date of the commencement of this Act contains provisions requiring that a draft of any Order in Council or other document to be made in exercise of any power conferred by that or any other Act shall be laid before Parliament before being submitted to His Majesty, or before being made, as the case may be, and that it shall not be so submitted or made if within a specified period either House presents an address to His Majesty or passes a resolution to that effect, then, subject to the provisions of any Order in Council made under this Act, a draft of any statutory instrument made in exercise of the said power shall by virtue of this Act be laid before Parliament and the provisions of the last foregoing subsection shall apply thereto accordingly in substitution for any such provisions as aforesaid contained in the Act passed before the said date.

7.—(1.) In reckoning for the purposes of either of the last two foregoing sections any period of forty days, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(2.) In relation to any instrument required by any Act, whether passed before or after the commencement of this Act, to be laid before the House of Commons only, the provisions of the last three foregoing sections shall have effect as if references to that House were therein substituted for references to Parliament and for references to either House and each House thereof.

(3.) The provisions of sections four and five of this Act shall not apply to any statutory instrument being an order which is subject to special Parliamentary procedure, or to any other instrument which is required to be laid before Parliament, or before the House of Commons, for any period before it comes into operation.

8.—(1.) The Treasury may, with the concurrence of the Lord Chancellor and the Speaker of the House of Commons, by statutory instrument make regulations for the purposes of this Act, and such regulations may, in particular: —

(*a*) provide for the different treatment of instruments which are of the nature of a public Act, and of those which are of the nature of a local and personal or private Act;

(*b*) make provision as to the numbering, printing, and publication of statutory instruments including provision for postponing the numbering of any such instrument which does not take effect until it has been approved by Parliament, or by the House of Commons, until the instrument has been so approved;

(*c*) provide with respect to any classes or descriptions of statutory instrument that they shall be exempt, either altogether or to such extent as may be determined by or under the regulations, from the requirement of being printed and of being sold by the King's printer of Acts of Parliament, or from either of those requirements;

(*d*) determine the classes of cases in which the exercise of a statutory power by any

rule rule-making authority constitutes or does not constitute the making of such a statutory rule as is referred to in subsection (2) of section one of this Act, and provide for the exclusion from that subsection of any such classes;

(*e*) provide for the determination by a person or persons nominated by the Lord Chancellor and the Speaker of the House of Commons of any question—

(i) as to the numbering, printing, or publication of any statutory instrument or class or description of such instruments:

(ii) whether or to what extent any statutory instrument or class or description of such instruments is, under the regulations, exempt from any such requirement as is mentioned in paragraph (c) of this subsection:

(iii) whether any statutory instrument or class or description of such instruments is in the nature of a public Act or of a local and personal or private Act:

(iv) whether the exercise of any power conferred by an Act passed before the commencement of this Act is or is not the exercise of a power to make a statutory rule.

(2) Every statutory instrument made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

9.—(1.) If with respect to any power to confirm or approve orders, rules, regulations or other subordinate legislation conferred on a Minister of the Crown by any Act passed before the commencement of this Act, it appears to His Majesty in Council that, notwithstanding that the exercise of that power did not constitute the making of a statutory rule within the meaning of the Rules Publication Act, 1893, it is expedient that the provisions of this Act should apply to documents by which that power is exercised, His Majesty may by Order in Council direct that any document by which that power is exercised after such date as may be specified in the Order shall be known as a "statutory instrument" and the provisions of this Act shall apply thereto accordingly.

(2) If with respect to any Act passed before the commencement of this Act it appears to His Majesty in Council that by reason of the exceptional nature of any provisions of that Act the application of subsection (2) of section five or subsection (2) of section six of this Act to statutory instruments made under any provisions of that Act would be inexpedient, His Majesty may by Order in Council direct that those subsections shall not apply to statutory instruments made under those provisions, or shall apply thereto subject to such modifications as may be specified in the Order.

(3) A draft of any Order in Council proposed to be made under this section shall be laid before Parliament.

10.—(1.) This Act shall come into operation on such date as His Majesty may by Order in Council appoint:

Provided that, without prejudice to the provisions of section thirty-seven of the Interpretation Act, 1889, the last foregoing section and, in relation to any Order in Council made thereunder, the provisions of sections six and seven of this Act shall come into operation on the passing of this Act.

(2) The Order in Council made under this section shall be laid before Parliament after being made.

11.—(1) For the purposes of this Act, any power to make, confirm or approve orders, rules, regulations or other subordinate legislation conferred on the Treasury, the Admiralty, the Board of Trade or any other government department shall be deemed to be conferred on the Minister of the Crown in charge of that department.

(2) If any question arises whether any board, commissioners or other body on whom any such power as aforesaid is conferred are a government department within the meaning of this section, or what Minister of the Crown is in charge of them, that question shall be referred to and determined by the Treasury.

12. —(1) The Rules Publication Act, 1893, is hereby repealed.

(2) The publication in the London, Edinburgh or Belfast Gazette of a notice stating that a statutory instrument has been made, and specifying the place where copies thereof may be purchased, shall be sufficient compliance with the provisions of any enactment, whether passed before or after the commencement of this Act, requiring that instrument to be published or notified in that Gazette.

13.—(1) This Act may be cited as the Statutory Instrument Act, 1946.

(2) This Act shall apply to any statutory instrument made by His Majesty in Council or by any Minister of the Crown (not being a rul-making authority within the meaning

of the Rule Publication Act (Northern Ireland), 1925) in so far as it extends to Northern Ireland, but except as aforesaid this Act shall not extend it to Northern Ireland.

APPENDIX G

MODEL ACT

RECOMMENDED BY UNIFORMITY COMMISSION IN 1943
& FORMING THE BASIS FOR EXISTING ALBERTA
LEGISLATION — ALBERTA REGULATIONS ACT,
R. S. A., 1970, c. 318

REGULATIONS ACT

AN ACT TO PROVIDE FOR THE CENTRAL
FILING AND PUBLICATION OF REGULATIONS

(Recommended 1943)

1. This Act may be cited as "*The Regulations Act*".

2. In this Act, unless the context otherwise requires,

(a) "file" means file with the Registrar in the manner prescribed in section 3;

(b) "local authority" means (each province define);

(c) "minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;

(d) "publish" means publish in the manner prescribed in section 4;

(e) "Registrar" means the Registrar of Regulations appointed under this Act; and

(f) "regulation" means any regulation, proclamation, rule or order made under the authority of any statute of ..... but does not include any by-law or resolution made by a local authority or by a company incorporated under the laws of the province.

3. (1) Every regulation or a certified copy thereof shall be filed with the Registrar.

(2) Unless a later day is provided a regulation, other than one referred to in section 10, shall come into force on the day it is filed with the Registrar but in no case shall such a regulation come into force before the day of filing.

4. (1) The Registrar shall, within one month of the filing thereof, publish every regulation, other than one referred to in section 10, in the _____ Gazette.

(2) The minister may, by order, extend the time for publication of a regulation and a copy of the order shall be published with the regulation.

5. (1) Production of a regulation proved in the manner provided by *The Evidence Act* is *prima facie* evidence of the filing of the regulation in accordance with this Act.

(2) Production of a certificate by the Registrar that the regulation was filed on a specified date is *prima facie* proof that it was so filed.

6. The Lieutenant Governor in Council may exempt from any of the provisions of this Act any regulation, the publication of which in his opinion is not in the public interest.

7. There shall be a Registrar of Regulations who shall be

(a) appointed by the Lieutenant Governor in Council;

(b) under the control and direction of the minister; and

(c) responsible for the recording, numbering and indexing of all regulations filed with him and for the publication thereof in accordance with this Act.

8. (1) Regulations made after the coming into force of this Act and filed with the Registrar shall be numbered in order in which they are received and a new series shall be commenced in each calendar year.

(2) The regulations referred to in subsection (1) may be cited as "(Ontario) Regulations" or "(O.) Reg." followed by the number thereof, a vertical stroke and the last two figures of the calendar year of the filing thereof.

9. (1) The Lieutenant Governor in Council may make regulations,

(a) prescribing the powers and duties of the Registrar;

(b) prescribing the form and arrangement of regulations;

(c) prescribing a system of indexing regulations;

(d) providing for the publication of consolidations of regulations filed pursuant to this Act, at such intervals or times as he deems advisable, and for the publication of supplements to the consolidations;

(e) providing for the inspection of regulations; and

(f) generally for the carrying out of the provisions of this Act.

(2) Publication of a regulation in any consolidation or supplement thereto shall be deemed to be publication within the meaning of this Act.

10. Every regulation in effect when this Act comes into force shall be filed with the Registrar on or before the 31st day of December, 19 _____.

APPENDIX G

ACTS

STATUTES OF CANADA — 1950

CHAPTER 235.

An Act to provide for the Publication of Statutory Regulations.

SHORT TITLE

1. This Act may be cited as the *Regulations Act.* 1950, c. 50, s. 1.

INTERPRETATION

2. In this Act

(*a*) "regulation" means a rule, order, regulation, by-law or proclamation

(i) made, in the exercise of a legislative power conferred by or under an Act of Parliament, by the Governor in Council, the Treasury Board, a Minister of the Crown, or a board, commission, corporation or other body or person that is an agent or servant of Her Majesty in right of Canada, or

(ii) for the contravention of which a penalty of fine or imprisonment is prescribed by or under an Act of Parliament,

but does not include

(iii) an ordinance of the Yukon Territory or the Northwest Territories,

(iv) an order or decision of a judicial tribunal,

(v) a rule, order or regulation governing the practice or procedure in any proceedings before a judicial tribunal, or

(vi) a rule, order, regulation or by-law of a corporation incorporated by or under an Act of Parliament unless the rule, order, regulation or by-law comes within subparagraph (ii);

(*b*) "regulation-making authority" means every authority authorized to make regulations and with reference to a regulation means the authority that made the regulation. 1950, c. 50, s. 2.

TRANSMISSION R. S., 1952.

TRANSMISSION AND RECORDING.

3. (1) Every regulation-making authority shall, within seven days after it makes a regulation, transmit copies of the regulation in English and in French to the Clerk of the Privy Council.

(2) A copy of a regulation transmitted to the Clerk of the Privy Council under subsection (1), other than one made by the Governor in Council or the Treasury Board, shall be certified by the regulation-making authority to be a true copy of the regulation. 1950, c. 50, s. 3.

4. (1) The Clerk of the Privy Council shall maintain a record in which he shall record the regulations transmitted to him under section 3 and the regulations made by the Governor in Council or the Treasury Board.

(2) Every regulation recorded under this section shall bear a number assigned to it by the Clerk of the Privy Council, but all copies of the same regulation, whether they are in English or in French, shall bear the same number, 1950, c. 50, s. 4.

5. (1) A regulation is not invalid by reason only that it was not transmitted to the Clerk of the Privy Council, certified or recorded as required by this Act.

(2) In addition to any other mode of citation, regulations may be cited or referred to by the expression "Statutory Orders and Regulations" or "S.O.R." followed by the number thereof. 1950, c. 50, s. 5.

PUBLICATION.

6. (1) Every regulation shall be published in English and in French in the *Canada Gazette* within thirty days after it is made.

(2) A regulation-making authority may by order extend the time for publication of a regulation and the order shall be published with the regulation.

(3) No regulation is invalid by reason only that it was not published in the *Canada Gazette,* but no person shall be convicted for an offence consisting of a contravention of any regulation that was not published in the *Canada Gazette* unless

(a) the regulation was, pursuant to section 9, exempted from the operation of subsection (1), or the regulation expressly provides that it shall operate according to its terms prior to publication in the *Canada Gazette,* and

(b) it is proved that at the date of alleged contravention reasonable steps had been taken for the purpose of bringing the purport of the regulation to the notice of the public, or the persons likely to be affected by it, or of the person charged. 1950, c. 50, s. 6.

REPORT TO PARLIAMENT.

7. Every regulation shall be laid before Parliament within fifteen days after it is published in the *Canada Gazette* or, if Parliament is not then in session, within fifteen days after the commencement of the next ensuing session. 1950, c. 50, s. 7.

JUDICIAL NOTICE.

8. (1) A regulation that has been published in the *Canada Gazette* shall be judicially noticed.

(2) In addition to any other mode of proof, evidence of a regulation may be given by the production of the *Canada Gazette* purporting to contain the text thereof.

(3) For the purposes of this section the publication of a regulation in a consolidation or supplement published pursuant to section 9 shall be deemed to be publication in the *Canada Gazette.* 1950, c. 50, s. 8.

REGULATIONS.

9. (1) The Governor in Council may make regulations

(*a*) prescribing the powers and duties of the Clerk of the Privy Council under this Act;

(*b*) prescribing the system of recording, indexing and preparation for the publication of regulations;

(*c*) providing for the preparation and publication of consolidations of regulations and for the preparation and publication of supplements to such consolidations; and

(*d*) for carrying out the purposes and provisions of this Act.

(2) The Governor in Council may by regulation exempt any regulation or class of regulations from the operation of section 3, section 4, subsection (1) of section 6, and section 7, but every regulation made under this subsection shall be published in English and in French in the *Canada Gazette* within thirty days after it is made and shall be laid before Parliament within fifteen days after it is published in the *Canada Gazette* or, if Parliament is not then in session, within fifteen days after the commencement of the next ensuing session. 1950, c. 50, s. 9.

APPENDIX G

ACTS

STATUTES OF CANADA — 1971

19-20 ELIZABETH II

CHAPTER 38

An Act to provide for the examination, publication and scrutiny of regulations and other statutory instruments

[*Assented to 19th May, 1971*]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

1. This Act may be cited as the *Statutory Instruments Act*.

INTERPRETATION

2. (1) In this Act,

(*a*) "prescribed" means prescribed by regulations made pursuant to this Act;

(*b*) "regulation" means a statutory instrument

(i) made in the exercise of a legislative power conferred by or under an Act of Parliament, or

(ii) for the contravention of which a penalty, fine or imprisonment is prescribed by or under an Act of Parliament,

and includes a rule, order or regulation governing the practice or procedure in any proceedings before a judicial or quasi-judicial body established by or under an Act of Parliament, and any instrument described as a regulation in any other Act of Parliament;

(*c*) "regulation-making authority" means any authority authorized to make regulations and, with reference to any particular regulation or proposed regulation, means the authority that made or proposes to make the regulation; and

(*d*) "statutory instrument" means any rule, order, regulation, ordinance, direction, form, tariff of costs or fees, letters patent, commission, warrant, proclamation, by-law, resolution or other instrument issued, made or established

(i) in the execution of a power conferred by or under an Act of Parliament, by or under which such instrument is expressly authorized to be issued, made or established otherwise than by the conferring on any person or body of powers or functions in relation to a matter to which such instrument relates, or

(ii) by or under the authority of the Governor in Council, otherwise than in the execution of a power conferred by or under an Act of Parliament,

but does not include

(iii) any such instrument issued, made or established by a corporation incorporated by or under an Act of Parliament unless

(A) the instrument is a regulation and the corporation by which it is made is one that is ultimately accountable, through a Minister, to Parliament for the conduct of its affairs, or

(B) the instrument is one for the contravention of which a penalty, fine or imprisonment is prescribed by or under an Act of Parliament,

(iv) any such instrument issued, made or established by a judicial or quasi-judicial body, unless the instrument is a rule, order or regulation governing the practice or procedure in proceedings before a judicial or quasi-judicial body established by or under an Act of Parliament,

(v) any such instrument in respect of which, or in respect of the production or other disclosure of which, any privilege exists by law or whose contents are limited to advice or information intended only for use or assistance in the making of a decision or the determination of policy, or in the ascertainment of any matter necessarily incidental thereto, or

(vi) an ordinance of the Yukon Territory or the Northwest Territories or any instrument issued, made or established thereunder.

(2) In applying paragraph (*b*) of subsection (1) for the purpose of determining whether or not an instrument described in subparagraph (iii) of paragraph (*d*) of that subsection is a regulation, such instrument shall be deemed to be a statutory instrument, and any instrument accordingly determined to be a regulation shall be deemed to be a regulation for all purposes of this Act.

EXAMINATION OF PROPOSED REGULATIONS

3. (1) Where a regulation-making authority proposes to make a regulation it shall cause to be forwarded to the Clerk of the Privy Council three copies of the proposed regulation in both official languages.

(2) Upon receipt by the Clerk of the Privy Council of copies of a proposed regulation pursuant to subsection (1), the Clerk of the Privy Council, in consultation with the Deputy Minister of Justice, shall examine the proposed regulation to ensure that

(*a*) it is authorized by the statute pursuant to which it is to be made;

(*b*) it does not constitute an unusual or unexpected use of the authority pursuant to which it is to be made;

(*c*) it does not trespass unduly on existing rights and freedoms and is not, in any case, inconsistent with the purposes and provisions of the *Canadian Bill of Rights;* and

(*d*) the form and draftsmanship of the proposed regulation are in accordance with established standards.

(3) When a proposed regulation has been examined as required by subsection (2), the Clerk of the Privy Council shall advise the regulation-making authority that the proposed regulation has been so examined and shall indicate any matter referred to in paragraph (*a*), (*b*), (*c*) or (*d*) of that subsection to which, in the opinion of the Deputy Minister of Justice, based on such examination, the attention of the regulation-making authority should be drawn.

(4) Subsection (1) does not apply to any proposed regulation or class of regulation that, pursuant to paragraph (*a*) of section 27, is exempted from the application of that subsection, and paragraph (*d*) of subsection (2) does not apply to any proposed rule, order or regulation governing the practice or procedure in any proceedings before the Supreme Court of Canada or the Federal Court of Canada.

4. Where any regulation-making authority or other authority responsible for the issue, making or establishment of a statutory instrument, or any person acting on behalf of such an authority, is uncertain as to whether or not a proposed statutory instrument would be a regulation if it were issued, made or established by such authority, it or he shall cause a copy of the proposed statutory instrument to be forwarded to the Deputy Minister of Justice who shall determine whether or not the instrument would be a regulation if it were so issued, made or established.

TRANSMISSION AND REGISTRATION

5. (1) Every regulation-making authority shall, within seven days after making a regulation or, in the case of a regulation made in the first instance in one only of its official language versions, within seven days after its making in that version, transmit copies of the regulation in both official languages to the Clerk of the Privy Council for registration pursuant to section 6.

(2) One copy of each of the official language versions of each regulation that is transmitted to the Clerk of the Privy Council pursuant to subsection (1), other than a regulation made or approved by the Governor in Council, shall be certified by the regulation-making authority to be a true copy thereof.

(3) Subsection (1) does not apply to any regulation of a class that, pursuant to paragraph (*b*) of section 27, is exempted from the application of that subsection.

6. Subject to subsection (1) of section 7, the Clerk of the Privy Council shall register

(*a*) every regulation transmitted to him pursuant to subsection (1) of section 5;

(*b*) every statutory instrument, other than a regulation, that is required by or under any Act of Parliament to be published in the *Canada Gazette* and is so published; and

(*c*) every statutory instrument or other document that, pursuant to any regulation made under paragraph (*g*) of section 27, is directed or authorized by the Clerk of the Privy Council to be published in the *Canada Gazette.*

7. (1) Where any statutory instrument is transmitted or forwarded to the Clerk of the Privy Council for registration under this Act, the Clerk of the Privy Council may refuse to register the instrument if

(*a*) he is not advised that the instrument was, before it was issued, made or established, determined by the Deputy Minister of Justice pursuant to section 4 to be one that would, if it were issued, made or established, not be a regulation; and

(*b*) in his opinion, the instrument was before it was issued, made or established, a proposed regulation to which subsection (1) of section 3 applied and was not examined in accordance with subsection (2) of that section.

(2) Where the Clerk of the Privy Council refuses to register any statutory instrument

for the reasons referred to in subsection (1), he shall forward a copy of the instrument to the Deputy Minister of Justice who shall determine whether or not it is a regulation.

POWER TO REVOKE REGULATIONS

8. No regulation is invalid by reason only that it was not examined in accordance with subsection (2) of section 3, but where any statutory instrument that was issued, made or established without having been so examined

(*a*) was, before it was issued, made or established, determined by the Deputy Minister of Justice pursuant to section 4 to be one that would, if it were issued, made or established, be a regulation, or

(*b*) has, since its issue, making or establishment, been determined by the Deputy Minister of Justice pursuant to section 7 to be a regulation,

the Governor in Council, on the recommendation of the Minister of Justice, may, notwithstanding the provisions of the Act by or under the authority of which the instrument was or purports to have been issued, made or established, revoke the instrument in whole or in part and thereupon cause the regulation-making authority or other authority by which it was issued, made or established to be notified in writing of his action.

COMING INTO FORCE OF REGULATIONS

9. (1) No regulation shall come into force on a day earlier than the day on which it is registered unless

(*a*) it expressly states that it comes into force on a day earlier than that day and is registered within seven days after it is made, or

(*b*) it is a regulation of a class that, pursuant to paragraph (*b*) of section 27, is exempted from the application of subsection (1) of section 5,

in which case it shall come into force, except as otherwise authorized or provided by or under the Act pursuant to which it is made, on the day on which it is made or on such later day as may be stated in the regulation.

(2) Where a regulation is expressed to come into force on a day earlier than the day on which it is registered, the regulation-making authority shall advise the Clerk of the Privy Council in writing of the reasons why it is not practical for the regulation to come into force on the day on which it is registered.

PUBLICATION IN CANADA GAZETTE

10. The Queen's Printer shall continue to publish the *Canada Gazette* as the official gazette of Canada.

11. (1) Subject to any regulations made pursuant to paragraph (*c*) of section 27, every regulation shall be published in the *Canada Gazette* within twenty-three days after copies thereof in both official languages are registered pursuant to section 6.

(2) No regulation is invalid by reason only that it was not published in the *Canada Gazette,* but no person shall be convicted of an offence consisting of a contravention of any regulation that at the time of the alleged contravention was not published in the *Canada Gazette* in both official languages unless

(*a*) the regulation was exempted from the application of subsection (1) pursuant to paragraph (*c*) of section 27, or the regulation expressly provides that it shall apply according to its terms before it is published in the *Canada Gazette,* and

(*b*) it is proved that at the date of the alleged contravention reasonable steps had been taken to bring the purport of the regulation to the notice of those persons likely to be affected by it.

12. Notwithstanding anything in this Act, the Governor in Council may by regulation direct that any statutory instrument or other document, or any class thereof, be published in the *Canada Gazette* and the Clerk of the Privy Council, where authorized by regulations made by the Governor in Council, may direct or authorize the publication in the *Canada Gazette* of any statutory instrument or other document, the publication of which, in his opinion, is in the public insterest.

DISTRIBUTION OF CANADA GAZETTE

13. (1) A copy of each regulation that is published in the *Canada Gazette* shall be provided to each member of the Senate and House of Commons by delivering to each such member without charge a copy of the *Canada Gazette* in which the regulation is published.

(2) Copies of the *Canada Gazette* shall be delivered without charge to such persons or classes of persons, in addition to those described in subsection (1), as may be prescribed and may be sold to any person upon payment of the charge prescribed therefor.

INDEXES

14. (1) The Clerk of the Privy Council shall prepare and the Queen's Printer shall publish quarterly a consolidated index of all regulations and amendments to regulations in force at any time after the end of the preceding calendar year, other than any regulation that is exempted from the application of subsection (1) of section 11 as a regulation described in subparagraph (iii) of paragraph (*c*) of section 27.

(2) The Queen's Printer shall prepare and publish a quarterly index of all documents, other than regulations, that have been published in the *Canada Gazette* during the three-month period immediately preceding the month in which the index is published.

REVISIONS AND CONSOLIDATIONS OF REGULATIONS

15. There is hereby established a Committee consisting of the Clerk of the Privy Council, the Deputy Minister of Justice and not more than three other persons to be appointed from time to time by the Governor in Council.

16. As soon as reasonably possible after each arrangement, revision and consolidation of the public general statutes of Canada and at such other times as the Governor in Council may direct, the Committee shall examine the last preceding consolidation of the regulations and all regulations and amendments to regulations made since such consolidation, other than regulations that are exempted from the application of subsection (1) of section 11 or that are of a class that, if they had been made after the coming into force of this Act, would have been so exempted, and shall prepare a consolidation of all such regulations and amendments thereto examined by it that, in the opinion of the Committee, are intended to be of continuing effect and ought to be included in the consolidation.

17. (1) As soon as the Committee reports in writing the completion of any consolidation of regulations referred to in section 16, the Governor General may cause a printed Roll thereof, attested under his signature and the signatures of the Clerk of the Privy Council and the Deputy Minister of Justice, to be deposited in the office of the Clerk of the Privy Council, which Roll shall be deemed to be the original of the regulations so consolidated.

(2) After the completion of any consolidation of regulations referred to in section 16, the Committee may prepare for publication as part of the consolidation a supplement thereto, showing, as amendments or additions to the consolidation, any regulations or amendments thereto made before the coming into force of the consolidation, and any such regulations or amendments thereto shall be deemed to be included in and to be part of the consolidation and any citation of a regulation included in the consolidation shall be deemed to include any amendments thereto contained in the supplement.

18. There shall be appended to the Roll referred to in subsection (1) of section 17 a Schedule in which the Committee may include all regulations and provisions of regulations that, though not expressly revoked, are superseded by the regulations so consolidated, or are inconsistent therewith, and all regulations and provisions of regulations that were for a temporary purpose, the force of which is spent.

19. In the preparation of any consolidation of regulations referred to in section 16, the Committee may omit any regulation or provision thereof that is obsolete or spent, may make such alterations in the language and punctuation of any regulation as are necessary to obtain a uniform mode of expression, and may make such minor amendments as are necessary to convey more clearly that which it deems to be the intention of the regulation-making authority or to reconcile seemingly inconsistent provisions or to correct clerical, grammatical or typographical errors.

20. After the deposit of any Roll referred to in subsection (1) of section 17, a proclamation may issue fixing the day upon which the regulations included in the Roll shall come into force and have effect as law, by the designation of the "Consolidated Regulations of Canada, 19. . .".

21. (1) On the day fixed by proclamation pursuant to section 20, the regulations included in the Roll shall come into force and have effect as and by the designation of the "Consolidated Regulations of Canada, 19. . .", to all intents as if each such regulation

had been made by the appropriate regulation-making authority and, where approval of any other authority is required by the Act pursuant to which it would otherwise have been made, with the approval of such other authority.

(2) On the day referred to in subsection (1), all regulations and provisions of regulations set out in the Schedule to the Roll are revoked to the extent mentioned in that Schedule.

22. (1) Where the Clerk of the Privy Council, after consultation with the Deputy Minister of Justice, is of the opinion that any particular regulations should be revised or consolidated, he may request the regulation-making authority or any person acting on behalf of such authority to prepare a revision or consolidation of those regulations.

(2) Where any authority or person referred to in subsection (1) fails to comply within a reasonable time with a request made pursuant to that subsection, the Governor in Council may, by order, direct that authority or person to comply with the request within such period of time as he may specify in the order.

JUDICIAL NOTICE OF STATUTORY INSTRUMENTS

23. (1) A statutory instrument that has been published in the *Canada Gazette* shall be judicially noticed.

(2) In addition to any other manner of proving the existence or contents of a statutory instrument, evidence of the existence or contents of a statutory instrument may be given by the production of a copy of the *Canada Gazette* purporting to contain the text of the statutory instrument.

(3) For the purposes of this section, where a regulation is included in a copy of a consolidation of regulations purporting to be printed by the Queen's Printer, that regulation shall be deemed to have been published in the *Canada Gazette.*

RIGHT OF ACCESS TO STATUTORY INSTRUMENTS

24. Subject to any other Act of Parliament and to any regulations made pursuant to paragraph (*d*) of section 27, any person may, upon payment of the fee prescribed therefor, inspect

(*a*) any statutory instrument that has been registered by the Clerk of the Privy Council, by attending at the office of the Clerk of the Privy Council or at such other place as may be designated by him and requesting that the statutory instrument be produced for inspection; or

(*b*) any statutory instrument that has not been registered by the Clerk of the Privy Council, by attending at the head or central office of the authority that made the statutory instrument or at such other place as may be designated by such authority and requesting that the statutory instrument be produced for inspection.

25. Subject to any other Act of Parliament and to any regulations made pursuant to paragraph (*d*) of section 27, any person may, upon payment of the fee prescribed therefor, obtain copies of

(*a*) any statutory instrument that has been registered by the Clerk of the Privy Council, by writing to the Clerk of the Privy Council or by attending at the office of the Clerk of the Privy Council or at such other place as may be designated by him, and requesting that a copy of the statutory instrument be provided; or

(*b*) any statutory instrument that has not been registered by the Clerk of the Privy Council, by writing to the authority that made the statutory instrument or by attending at the head or central office of the authority or at such other place as may be designated by such authority, and requesting that a copy of the statutory instrument be provided.

SCRUTINY BY PARLIAMENT OF STATUTORY INSTRUMENTS

26. Every statutory instrument issued, made or established after the coming into force of this Act, other than an instrument the inspection of which and the obtaining of copies of which are precluded by any regulations made pursuant to paragraph (*d*) of section 27, shall stand permanently referred to any Committee of the House of Commons, of the Senate or of both Houses of Parliament that may be established for the purpose of reviewing and scrutinizing statutory instruments.

REGULATIONS

27. The Governor in Council may make regulations,

(*a*) exempting any proposed regulation or class of regulation from the application of subsection (1) of section 3 where that regulation or class of regulation would, if it were

made, be exempted from the application of subsection (1) of section 5 or from the application of subsection (1) of section 11 as a regulation or class of regulation described in subparagraph (ii) of paragraph (*c*);

(*b*) exempting any class of regulation from the application of subsection (1) of section 5 where, in the opinion of the Governor in Council, the registration thereof is not reasonably practicable due to the number of regulations of that class;

(*c*) subject to any other Act of the Parliament of Canada, exempting from the application of subsection (1) of section II

(i) any class of regulation that is exempted from the application of subsection (1) of section 5,

(ii) any regulation or class of regulation where the Governor in Council is satisfied that the regulation or class of regulation affects or is likely to affect only a limited number of persons and that reasonable steps have been or will be taken for the purpose of bringing the purport thereof to the notice of those persons affected or likely to to be affected by it, or

(iii) any regulation or class of regulation where the Governor in Council is satisfied that the regulation or class of regulation is such that in the interest of international relations, national defence or security or federal-provincial relations it should not be published:

(*d*) precluding the inspection of and the obtaining of copies of

(i) any regulation or class of regulation that has been exempted from the application of subsection (1) of section II as a regulation described in subparagraph (iii) of paragraph (*c*),

(ii) any statutory instrument or class of statutory instrument other than a regulation, where the Governor in Council is satisfied that in the interest of international relations, national defence or security or federal-provincial relations the inspection thereof and the obtaining of copies thereof should be precluded, or

(iii) any statutory instrument or class of statutory instrument the inspection of which or the making of copies of which is not otherwise provided for by law, in respect of which the Governor in Council is satisfied that the inspection or making of copies thereof as provided for by this Act would, if it were not precluded by any regulation made under this section, result or be likely to result in injustice or undue hardship to any person or body affected thereby or in serious and unwarranted detriment to any such person or body in the matter or conduct of his or its affairs;

(*e*) prescribing the manner in which a regulation-making authority shall transmit copies of a regulation to the Clerk of the Privy Council;

(*f*) prescribing the form and manner in which any statutory instrument shall be registered and the form and manner in which and the period of time for which records of any statutory instrument shall be maintained:

(*g*) authorizing the Clerk of the Privy Council to direct or authorize publication in the *Canada Gazette* of any statutory instrument or other document, the publication of which, in the opinion of the Clerk of the Privy Council, is in the public interest;

(*h*) respecting the form and manner in which the *Canada Gazette* shall be published and prescribing the classes of documents that may be published therein;

(*i*) requiring any regulation-making authority to forward to the Clerk of the Privy Council such information relating to any regulations made by it that are exempted from the application of subsection (1) of section II as will enable the Clerk of the Privy Council to carry out the obligation imposed upon him by subsection (1) of section 14;

(*j*) respecting the form and manner in which any index of statutory instruments or any consolidation of regulations shall be prepared and published;

(*k*) prescribing the persons or classes of persons to whom copies of any consolidation of regulations may be delivered without charge and prescribing the charge that shall be paid by any other person for a copy of any such consolidation;

(*l*) prescribing the fee that shall be paid by any person for any inspection of a statutory instrument or for obtaining a copy thereof or the manner in which any such fee shall be determined; and

(*m*) prescribing any matter or thing that by this Act is to be prescribed.

AMENDMENTS TO INTERPRETATION ACT

28. (1) Subsection (2) of section 6 of the *Interpretation Act* is repealed and the following substituted therefor:

"(2) Every enactment that is not expressed to come into force on a particular day shall be construed as coming into force

(*a*) in the case of an Act, upon the expiration of the day immediately before the day the Act was enacted;

(*b*) in the case of a regulation of a class that is not exempted from the application of subsection (1) of section 5 of the *Statutory Instruments Act,* upon the expiration of the day immediately before the day the regulation was registered pursuant to section 6 of that Act; and

(*c*) in the case of a regulation of a class that is exempted from the application of subsection (1) of section 5 of the *Statutory Instruments Act,* upon the expiration of the day immediately before the day the regulation was made".

(2) Subsection (2) of section 23 of the said Act is repealed and the following substituted therefor:

(2) Words directing or empowering a Minister of the Crown to do an act or thing, or otherwise applying to him by his name of office, include a Minister acting for him, or, if the office is vacant, a Minister designated to act in the office by or under the authority of an order in council, and also his successors in the office, and his or their deputy, but nothing in this subsection shall be construed to authorize a deputy to exercise any authority conferred upon a Minister to make a regulation as defined in the *Statutory Instruments Act*".

(3) The said Act is further amended by adding thereto, immediately after section 28 thereof, the following section:

"**28A.** (1) In every Act,

(*a*) the expression "subject to affirmative resolution of Parliament", when used in relation to any regulation, means that such regulation shall be laid before Parliament within fifteen days after it is made or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that Parliament is sitting and shall not come into force unless and until it is affirmed by a resolution of both Houses of Parliament introduced and passed in accordance with the rules of those Houses;

(*b*) the expression "subject to affirmative resolution of the House of Commons", when used in relation to any regulation, means that such regulation shall be laid before the House of Commons within fifteen days after it is made or, if the House is not then sitting, on any of the first fifteen days next thereafter that the House is sitting and shall not come into force unless and until it is affirmed by a resolution of the House of Commons introduced and passed in accordance with the rules of that House;

(*c*) the expression "subject to negative resolution of Parliament", when used in relation to any regulation, means that such regulation shall be laid before Parliament within fifteen days after it is made or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that Parliament is sitting and may be annulled by a resolution of both Houses of Parliament introduced and passed in accordance with the rules of those Houses; and

(*d*) the expression "subject to negative resolution of the House of Commons", when used in relation to any regulation, means that such regulation shall be laid before the House of Commons within fifteen days after it is made or, if the House is not then sitting, on any of the first fifteen days next thereafter that Parliament is sitting and may be annulled by a resolution of the House of Commons introduced and passed in accordance with the rules of that House.

(2) Where a regulation is annulled by a resolution of Parliament or of the House of Commons, as the case may be, it shall be deemed to have been revoked on the day the resolution is passed and any law that was revoked or amended by the making of that regulation shall be deemed to be revived on the day the resolution is passed but the validity of any action taken or not taken in compliance with a regulation so deemed to have been revoked shall not be affected by the resolution."

CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

29. Section 3 of the *Canadian Bill of Rights* is repealed and the following substituted therefor:

"3. The Minister of Justice shall, in accordance with such regulations as may be prescribed by the Governor in Council, examine every regulation transmitted to the Clerk of the Privy Council for registration pursuant to the *Statutory Instruments Act* and every Bill introduced in or presented to the House of Commons, in order to ascertain whether any of the provisions thereof are inconsistent with the purposes and provisions of this Part and he shall report any such inconsistency to the House of Commons at the first convenient opportunity."

30. Section 41 of the *Defence Production Act* is repealed and the following substituted therefor:

"**41.** (1) Every regulation, as defined in the *Statutory Instruments Act,* made under the authority of this Act shall be published in the *Canada Gazette* within thirty days after it is made.

(2) Where a regulation has been published in the *Canada Gazette* pursuant to subsection (1), a notice of motion in either House signed by ten members thereof and made in accordance with the rules of that House within seven days of the day the regulation was published or, if Parliament is not then sitting, on any of the first seven days next thereafter that Parliament is sitting, praying that the regulation be revoked or amended, shall be debated in that House at the first convenient opportunity within the four sitting days next after the day the motion in that House was made."

31. All that portion of section 5 of the *Export and Import Permits Act* following paragraph (*c*) thereof is repealed and the following substituted therefor:

"and where any goods are included in the list for the purpose of ensuring supply or distribution of goods subject to allocation by intergovernmental arrangement or for the purpose of implementing an intergovernmental arrangement or commitment, a statement of the effect or a summary of the arrangement or commitment, if it has not previously been laid before Parliament, shall be laid before Parliament not later than fifteen days after the Order of the Governor in Council including those goods in the list is published in the *Canada Gazette* pursuant to the *Statutory Instruments Act* or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that Parliament is sitting."

TRANSITIONAL

32. Where a regulation or an amendment thereto has not been published in the *Canada Gazette* and is of such a class that, if it were made after the coming into force of this Act, it would not be exempted pursuant to paragraph (*c*) of section 27 from the application of subsection (1) of section 11, it shall be deemed to be revoked on a day twelve months after the day on which this Act comes into force unless before that day it is transmitted to the Clerk of the Privy Council in both official languages, in which case the Clerk of the Privy Council shall, notwithstanding subsection (1) of section 7, register the regulation forthwith.

REVISED STATUTES OF CANADA, 1970

33. (1) In this section,

(*a*) "old law" means the statutes in force prior to the coming into force of the Revised Statutes of Canada, 1970 that are repealed and replaced by the Revised Statutes of Canada, 1970; and

(*b*) "new law" means the Revised Statutes of Canada, 1970.

(2) The amendments made by this Act to or in terms of the old law shall be deemed to have been made correspondingly to or in terms of the new law, effective on the day the new law comes into force or the day this Act comes into force, whichever is the later day; and, without limiting the powers of the Statute Revision Commission under *An Act respecting the Revised Statutes of Canada,* the Statute Revision Commission shall, in selecting Acts for inclusion in the supplement to the consolidation referred to in section 3 of that Act, include therein the amendments so made by this Act in the form in which those amendments are deemed by this section to have been made.

(3) A reference in this Act to any Act that is repealed and replaced by the Revised Statutes of Canada, 1970, or to any provision of such an Act, shall, after the coming into force of those Revised Statutes, be read as regards any transaction, matter or thing subsequent thereto as a reference to the corresponding Act or provision included in those Revised Statutes.

REPEAL

34. The *Regulations Act,* chapter 235 of the Revised Statues of Canada, 1952 is repealed.

COMMENCEMENT

35. This Act shall come into force on a day to be fixed by proclamation.

APPENDIX G ACTS

STATUTES OF ALBERTA

THE REGULATIONS ACT

CHAPTER 318

1. This Act may be cited as *The Regulations Act.* [1957, c 78, s. 1]

2. (1) In this Act,

(*a*) "file" means file with the registrar in the manner prescribed in section 3;

(*b*) "local authority" means a city, town, village, municipal district, county, improvement district, hospital district, irrigation district, drainage district, special area, school division or school district;

(*c*) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Lieutenant Governor in Council;

(*d*) "publish" means publish in the manner prescribed in section 4;

(*e*) "registrar" means the Registrar of Regulations appointed under this Act;

(f) "regulation" means any regulation, rule, order or by-law, of a legislative nature made or approved under the authority of an Act of the Legislature, including those made by any board, commission, association, or similar body whether incorporated or unincorporated all the members of which, or all the members of the board of management or board of directors of which, are appointed by an Act of the Legislature or by the Lieutenant Governor in Council, but does not include any regulation, rule, order, by-law or resolution made by a local authority or, except as hereinbefore otherwise provided, by a corporation incorporated under the laws of the Province.

(2) Where a regulation, rule, order, or by-law is made or approved, pursuant to an Act of the Legislature, by the Lieutenant Governor in Council, a member of the Executive Council, or any board, commission, association, or similar body, of the kind mentioned in subsection (1), clause (*f*), if it prescribes, fixes or designates,

(*a*) a district, area, person, animal or other thing, or

(*b*) a period of time,

within, to, during, or in respect of, which the Act or any provision thereof does or does not apply, in whole or in part, generally or in a restricted manner, or within, to, during, or in respect of, which the Act provides that a thing specified in the Act may or may not be done, or shall or shall not be done, the regulation, rule, order, or by-law, shall be deemed to be a regulation as edfined in subsection (1), clause (*f*).

(3) Subsection (1) does not apply to an order of the Lieutenant Governor in Council directing the issue of a proclamation bringing into force, or suspending or repealing, an Act of the Legislature or any provision thereof.

(4) A regulation, rule, order, by-law, or resolution made by a corporation incorporated by a private Act of the Legislature, or by the board of directors or board of management of such corporation, is not a regulation within the meaning of subsection (1), clause (*f*). [1957, c. 78, s. 2]

3. (1) Every regulation or a certified copy thereof shall be filed in duplicate with the registrar.

(2) Unless a later day is provided, a regulation comes into force on the day it is filed with the registrar and in no case does such a regulation come into force before the day of filing.

(3) Unless expressly provided to the contrary in another Act, a regulation that is not filed as herein provided has no effect.

(4) Where, before the filing thereof, a regulation has been amended by any subsequent regulation, the filing of the first mentioned regulation with the amendment so made embodied therein or added thereto shall be deemed compliance with this section in respect of all those regulations. [1957, c. 78, s. 3]

4. (1) Subject to subsections (2) and (3), the registrar shall, within one month of the filing of the regulation, publish the regulation in *The Alberta Gazette*.

(2) The Minister may, by order, extend the time for publication of a regulation, and if the regulation is subsequently published a copy of the order or a notice of the order shall be published with the regulation.

(3) Where a regulation, in the opinion of the Lieutenant Governor in Council,

(*a*) has been available in printed form to all persons who are likely to be interested therein, and

(*b*) is of such length as to render publication thereof in *The AlbertaGazette* unnecessary or undesirable,

the Lieutenant Governor in Council, by order, may dispense with the publication thereof, and the regulation upon registration is as valid against all persons as if it had been published.

(4) Where, by order of the Minister or of the Lieutenant Governor in Council, the time for publication of a regulation is extended or publication thereof is dispensed with, the registrar shall publish the order or a notice of the order in *The Alberta Gazette* within one month after the making thereof.

(5) Unless expressly provided to the contrary in another Act, and subject to subsection (3), a regulation that is not published is not valid as against a person who has not had actual notice thereof. [1957, c. 78, s. 4]

5. (1) Production of a regulation proved in the manner provided by *The Alberta Evidence Act* is *prima facie* proof of the filing of the regulation in accordance with this Act.

(2) Production of a certificate by the registrar that the regulation was filed on a specified date is *prima facie* proof that it was filed on that date. [1957, c. 78, s. 5]

6. (1) Subject to subsections (2), (3) and (4) the registrar may decide whether any regulation, rule, order, or by-law, that has been presented to him for filing is a regulation within the meaning of this Act.

(2) Whenever required by the Minister, and at least once in each month, the registrar shall submit to the Lieutenant Governor in Council a report setting forth every regulation, rule, order, and by-law, that, pursuant to subsection (1), he has decided is not a regulation within the meaning of this Act and to which no reference is made in any preceding report submitted by him under this subsection.

(3) Unless otherwise required by the Lieutenant Governor in Council, submission by the registrar of a brief summary or description of the terms of a regulation, rule, order, or by-law, shall be deemed a sufficient compliance with subsection (2).

(4) The Lieutenant Governor in Council may approve the report or may order that any regulation, rule, order, or by-law to which reference is made therein shall be deemed to be a regulation within the meaning of this Act, and in that case it shall be deemed to have been subject to the provisions of this Act from the time when it was made or passed.

(5) Where the registrar has decided that a regulation, rule, order, or by-law is not a regulation within the menaing of this Act, and the Lieutenant Governor in Council on his so reporting has approved the report, the registrar with the approval of the Lieutenant Governor in Council may nevertheless reverse his decision and decide that the regulation, rule, order, or by-law is a regulation within the meaning of this Act and in that case it shall be deemed to have been subject to the provisions of this Act from the time it was made or passed. [1957, c. 78, s. 6]

7. (1) Regulations shall be numbered in the order in which they are filed and a new series shall be commenced in each calendar year.

(2) Regulations when filed may be cited as "Alberta Regulations" or "Alta. Reg." followed by the number thereof, a vertical stroke and the last two figures of the calendar year of the filing of the regulation.

(3) A reference in any Act or regulation to a line, word, or other portion, of or in any section, subsection, clause, subclause or paragraph, of or in a regulation shall be deemed to be a reference to the same as it appears in the regulation

(*a*) as published in *The Alberta Gazette* as herein required, or

(*b*) in the case of a regulation publication of which has been dispensed with under section 4, subsection (3), as published in the printed form in which it has been made available as mentioned in section 4, subsection (3). [1957, c. 78, s. 7]

8. (1) There shall be a Registrar of Regulations who shall be

(*a*) appointed by the Lieutenant Governor in Council,

(*b*) under the control and direction of the Minister, and

(*c*) responsible for the recording, numbering and indexing of all regulations filed with him and for the publication thereof in accordance with this Act.

(2) The Lieutenant Governor in Council may appoint a Deputy Registrar of Regulations who, in the absence of the registrar or at the request or with the approval of the registrar or of the Minister, may exercise the powers and shall discharge the duties of the registrar. [1957, c. 78, s. 8]

9. (1) The Lieutenant Governor in Council may make regulations

(*a*) prescribing the powers and duties of the registrar,

(*b*) prescribing the form and arrangement of regulations,

(*c*) prescribing a system of filing or registration and of indexing regulations,

(*d*) providing for the publication of consolidations of regulations filed pursuant to this Act, at such intervals or times as he deems advisable, and for the publication of supplements to the consolidations,

(*e*) exempting any regulations, rules, orders or by-laws or any class thereof from the provisions of this Act,

(*f*) providing for the inspection of regulations, and

(*g*) generally for the carrying out of the provisions of this Act.

(2) Publication of a regulation in any consolidation or supplement thereto shall be deemed to be publication within the meaning of this Act. [1937, c. 78, s. 9]

(Note: This Act is based on a model Act recommended by The Conference of Commissioners on Uniformity of Legislation in Canada).

APPENDIX G

ALBERTA REGULATION 377/68

THE REGULATIONS ACT
REGULATIONS UNDER THE REGULATIONS ACT
(O.C. 2113/68)

(Filed November 22, 1968)

The Lieutenant Governor in Council, upon the recommendation of the Honourable the Attorney General, pursuant to section 9 of The Regulations Act, is pleased to make Regulations under The Regulations Act as follows:

1. In these regulations,
   (a) "Act" means The Regulations Act;
   (b) "registrar" includes the Deputy Registrar of Regulations;
   (c) "regulation" includes a certified copy filed pursuant to section 3 of the Act.
2. The Attorney General is charged with the administration of the Act.
3. A regulation is filed under the Act when
   (a) an endorsement is made on the first page of the regulation in the following form:

FILED
under
THE REGULATIONS ACT
as ALBERTA REGULATION ...../....
on ....., 19 .....
.....
REGISTRAR OF REGULATIONS

(b) the number of the regulation and the date of filing are entered on the endorsement, and

(c) the registrar has signed the endorsement.

4. (1) A certified copy of a regulation tendered to the registrar for filing shall have endorsed on it or attached to it a certificate stating that it is a true copy of the original regulation.

(2) The certificate mentioned in subsection (1) shall be given,

(a) in the case of regulations made or approved by the Lieutenant Governor in Council by the Clerk of the Executive Council, or

(b) in the case of regulations made or approved by a Minister, by the Minster himself or his Deputy Minister or Assistant Deputy Minister, or

(c) in the case of regulations made or approved by a corporation, board, commission, association or other similar body, by its chairman, presiding officer or secretary or the officer of that body who has charge of the records of that body, or

(d) in any other case, by a person who, in the opinion of the registrar, is competent to give the certificate.

POWERS AND DUTIES OF THE REGISTRAR

5. (1) Where a regulation is tendered for filing and the registrar

(a) is in doubt as to

(i) the authority to make the regulation or any part thereof, or

(ii) the meaning of the regulation or any part thereof, or

(b) is of the opinion that the regulation or any part thereof does not comply with the requirements of the Act or these regulations,

the registrar may refuse to file the regulation.

(2) Where the registrar refuses to file a regulation under subsection (1) he may, and on demand by the person tendering the regulation for filing shall, refer the matter to the Attorney General for his decision thereon.

6. The registrar may refuse to file a regulation tendered for filing where the regulation does not show on its face

(a) an appropriate title or heading indicating its subject matter, or

(b) the provision of the Act authorizing the making or approval of the regulation, or

(c) by what person or body of persons the regulation was made or approved, or

(d) the date on which the regulation was made or approved, or

(e) where the regulation rescinds or amends an existing regulation, the regulation number of the regulation rescinded or amended.

7. (1) In this section,

(a) "approval" means a regulation approving a regulation requiring approval;

(b) "original regulation" means a regulation requiring approval that is made by the person or body of persons empowered to make it, whether it is made before, after or contemporaneously with the approval of it;

(c) "regulation requiring approval" means a regulation made by one person or body of persons which is required by law to be approved by another person or body of persons.

(2) In the case of a regulation requiring approval,

(a) the registrar shall refuse filing unless he receives both the original regulation and the approval,

(b) the original regulation and the approval shall be filed together as one regulation,

(c) the endorsement of filing shall be made on both the original regulation and the approval, and

(d) the registrar is required to publish only the approval except that, where the approval does not make reference to the original regulation by indicating its date and the person or body of persons that made it, the registrar shall also

publish the body of the original regulation or a notice that indicates its date and the person or body of persons who made it.

8. (1) If it appears to the registrar

(a) that a certified copy of any regulation filed with him contains an error, or is not a true copy of the original regulation, or

(b) that an entry or endorsement in the register or in an index has been made in error, or that an error has been made in the entry or endorsement, or

(c) that an entry or endorsement has been omitted, or

(d) that an entry or endorsement has been improperly made,

he may make any deferred entries or any necessary corrections, alterations or cancellations so that a certified copy of a regulation filed will be a true copy of the original or that any entry or endorsement will be in accordance with the facts, as the case may be.

(2) In making a correction, alteration, cancellation or a deferred entry the registrar

(a) shall not erase or render illegible the certified copy of the regulation filed with him or any part thereof, or the original entry or endorsement,

(b) shall affix a memorandum of the date indicating when the correction, alteration, cancellation or deferred entry was made, and

(c) shall initial any correction, alteration, cancellation or deferred entry so made.

9. (1) The registrar may replace by a duplicate thereof any regulation, register, index or other record that is worn or damaged beyond repair and unfit for use.

(2) Where a regulation or a register is replaced, the registrar shall attach or affix to, or endorse on, the duplicate affidavit made by himself and stating that the duplicate is a true copy of the original of which it purports to be a true copy.

(3) The registrar shall preserve the original of every regulation or copy thereof or register so replaced.

10. (1) The registrar shall keep on file a copy of every report made by him pursuant to subsection (2) of section 6 of the Act and of every approval or order given or made pursuant to subsection (4) or (5) of section 6 of the Act.

(2) Where, pursuant to subsection (4) or (5) of section 6 of the Act, a regulation is filed on the order, or with the approval of the Lieutenant Governor in Council, the registrar shall endorse on the regulation a memorandum of the circumstances and the date and shall sign the same.

FORM AND ARRANGEMENT OF REGULATIONS

11. The form of regulations, amendments thereto, consolidations, and rescissions thereof, including subtitling, punctuation, capitalization, spelling and other matters of style, shall conform to the practice of the office of the Legislative Counsel pertaining to the preparation of statutes.

12. Each regulation shall have a title or heading indicating its subject matter and shall be appropriately divided and subdivided, and the divisions and subdivisions shall be in accordance with the practice of the office of the Legislative Counsel pertaining to the preparation of statutes.

13. (1) Where regulations are typed they shall be double-spaced except in the case of quotations, tabulations, descriptions of land and indented clauses which may be single-spaced.

(2) One side only of a sheet shall be used.

14. The registrar may refuse to file a regulation that contains a map, form or illustration

(a) that is in any colour other than white, black or grey, or

(b) that cannot be legibly reproduced in the Gazette in its original size or in a reduced size.

15. For the purpose of numbering pursuant to section 7 of the Act, a series of correlated regulations contained in one order shall be dealt with as one regulation and only one number shall be given to the whole.

GENERAL

16. (1) Except as otherwise provided in the Act, the registrar shall furnish the Queen's Printer with the second copy of each regulation filed with him.

(2) Where publication in the Gazette is not required, the registrar may destroy or otherwise deal with the second copy of the regulation as he sees fit.

17. Each regulation shall be immediately available for inspection upon the filing thereof.

18. The following are exempt from the provisions of the Act:

(a) the by-laws made under the following Acts by the corporations established thereunder or by their respective boards of directors or boards of management:

(i) The Alberta General Insurance Company Act;

(ii) The Life Insurance Company of Alberta Act;

(iii) The Alberta Hospitals Association Act;

(iv) The Alberta Gas Trunk Line Company Act;

(v) The Alberta Resources Railway Corporation Act;

(vi) The Alberta Investment Fund Act, 1965;

(b) all regulations made under The Oil and Gas Conservation Act other than regulations made under subsection (10) of section 23 sections, 34,-34a,-34b, 41, 49d, 101 and 106 and Part VIII of that Act,

(c) all orders of the Oil and Gas Conservation Board made pursuant to a regulation made under any of the provisions of The Oil and Gas Conservation Act, enumerated in clause (b);

(d) an order of the Public Utilties Board made pursuant to The Oil and Gas Conservation Act;

(e) orders in council establishing pound districts and made pursuant to The Improvement Districts Stray Animals Act;

(f) district general plans and preliminary district plans made pursuant to Part IV of The Town and Rural Planning Act:

(g) all regulations made under The Universities Act except regulations made under subsection (4) of section 50 of that Act.

(h) All regulations made under the Financial Administration Act

(i) All regulations made under the Alberta Loan Act, 1968 and any Alberta Loan Act subsequently enacted.

(j) All regulations that are made by any producer board constituted under the Marketing of Agricultural Products Act and that relate to the determination, fixing, altering or cancellation of prices respecting any product regulated by the producer board.

19. Alberta Regulation 1/57 is rescinded.

20. These regulations come into force on December 1, 1968.